

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
SEATTLE DIVISION

FRANCIS GIMBEL, JR., Derivatively on
Behalf of AMAZON.COM, INC.,

Plaintiff,

v.

JEFFREY P. BEZOS, ANDREW R. JASSY,
BRIAN T. OLSAVSKY, DAVID H. CLARK,
SHELLEY L. REYNOLDS, ADAM N.
SELIPSKY, DAVID ZAPOLSKY, KEITH B.
ALEXANDER, EDITH W. COOPER, JAMIE
S. GORELICK, DANIEL P.
HUTTENLOCHER, JUDITH A. MCGRATH,
INDRA K. NOOYL, JONATHAN J.
RUBINSTEIN, PATRICIA Q. STONESIFER,
WENDELL P. WEEKS, TOM A. ALBERG,
ROSALIND BREWER, THOMAS O.
RYDER, and NATE SUTTON,

Defendants,

– and –

AMAZON.COM, INC., a Delaware
Corporation,

Nominal Defendant.

Civil Action No.

VERIFIED STOCKHOLDER DERIVATIVE
COMPLAINT

DEMAND FOR JURY TRIAL

Plaintiff Francis Gimbel, Jr. (“Plaintiff”), by and through undersigned counsel, submits this Verified Stockholder Derivative Complaint for breach of fiduciary duties, corporate waste, and unjust enrichment. Plaintiff alleges the following based on personal knowledge, and as to all other matters outside Plaintiff’s personal knowledge, upon information and belief based on the investigation of undersigned counsel, which includes, without limitation: (i) review and analysis of public filings with the United States Securities and Exchange Commission (“SEC”); (ii) review and analysis of court filings in (a) the related securities class action lawsuit filed against Amazon.com, Inc. (“Amazon” or the “Company”) and certain of its executive officers captioned *Joyce v. Amazon, Inc. et al.*, No. 2:22-cv-617 (W.D. Wash.) (the “Securities Class Action”); (b) consumer class action lawsuits alleging violations of, *inter alia*, the Illinois Biometric Information Privacy Act, 740 ILCS 14/1 *et seq.* (“BIPA”), and other state privacy laws (collectively, the “Consumer Class Actions”);¹ and (c) *District of Columbia v. Amazon.com, Inc.*, No. 2021 CA 001775 (D.C. Sup. Ct.), and *In re Amazon.com, Inc. eBook Antitrust Litigation*, No. 1:21-cv-351-GHW-DCF (collectively, the “Antitrust Actions”); and (iii) review and analysis of press releases, news reports, analyst reports, industry reports, investor conference call transcripts

¹ Specifically, the Consumer Class Actions include: *Cooper v. Amazon.com Inc. et al.*, No. 1:21CV04633 (N.D. Ill.); *Ragsdale v. Amazon Web Services, Inc.*, No. 1:20CV00560 (N.D. Ill.); *Redd v. Amazon.com, Inc. et al.*, No. 1:20CV06485 (N.D. Ill.); *Hryniewicki v. Amazon Web Services, Inc.*, No. 1:19CV07569 (N.D. Ill.); *Hogan v. Amazon.com Inc.*, No. 2:21CV00905 (W.D. Wash.); *McGoveran v. Amazon Web Services, Inc. et al.*, No. 3:20CV00031 (S.D. Ill.); *Vance v. Amazon.com, Inc.*, No. 2:20CV1084 (W.D. Wash.); *Flores v. Amazon.com Inc. et al.*, No. 2:21CV00873 (W.D. Wash.); *Flores v. Amazon.com Inc. et al.*, No. 1:21CV04064 (N.D. Ill.); *Wilcosky v. Amazon.Com, Inc. et al.*, No. 1:19CV05061 (N.D. Ill.); *Mayhall v. Amazon Web Services Inc. et al.*, No. 2:21CV01473 (W.D. Wash.); *Reid v. Amazon.com Inc. et al.*, No. 1:21CV06010 (N.D. Ill.); *Schaeffer v. Amazon.com, Inc. et al.*, No. 3:21CV01080 (S.D. Ill.); *McGoveran v. Amazon Web Services, Inc. et al.*, No. 1:20CV01399 (D. Del.); *Svoboda v. Amazon.com Inc. et al.*, No. 1:21CV05336 (N.D. Ill.); and *Dorian v. Amazon Web Services, Inc.*, No. 2:22-cv-00269 (W.D. Wash.).

1 and slides, and other information available in the public domain.

2 **I. INTRODUCTION²**

3 1. This is a stockholder derivative action brought on behalf of and for the benefit of
4 Amazon, against certain of its current and former officers and directors (the “Individual
5 Defendants,” defined herein), seeking to remedy their breaches of fiduciary duties, waste of
6 corporate assets, and unjust enrichment, which have caused substantial economic and reputational
7 harm to the Company.

8 2. Amazon is a leading multinational technology company, specializing in e-
9 commerce, cloud-based servicing, streaming and artificial intelligence. According to its public
10 filings, Amazon “seek[s] to be Earth’s most customer-centric company.” Amazon was founded in
11 1994 and is headquartered in Seattle, Washington. Its common stock trades on the NASDAQ
12 under the ticker symbol “AMZN.”

13 3. Throughout the relevant period, the Individual Defendants breached their fiduciary
14 duties owed to the Company by knowingly and/or recklessly causing the Company to store the
15 biometric information of its employees, users, and its cloud-based clients’ users, including minors,
16 without informing them of these practices and without securing users’ written consent, and to fail
17 to develop a written policy available to the public that set a retention schedule and guidelines for
18 users to permanently destroy biometric identifiers when the initial purpose for collection was
19 satisfied in direct violation of BIPA and other states’ privacy laws.

20 4. The Individual Defendants further breached their fiduciary duties and violated the
21 law by causing the Company to engage in various anticompetitive practices against third party
22 sellers (“TPSs”), including (i) causing the online retailer to enter into contracts with TPSs that had
23

24 ² All emphasis herein is added unless otherwise stated.

1 the effect of inflating prices for consumers through policies that guaranteed Amazon a minimum
2 profit on each item sold, while simultaneously discouraging TPSs from offering their products at
3 lower prices through other retailers; and (ii) giving Amazon private-label products preference over
4 those of its competitors using TPSs's non-public data.

5 5. Finally, the Individual Defendants also misled the investing public in the
6 Company's SEC filings and other public statements regarding Amazon's business and compliance
7 with applicable laws and regulations, as detailed further below.

8 6. As a result of their misconduct and unbeknownst to the investing public, the
9 Individual Defendants exposed Amazon to heightened risks of increased regulatory scrutiny,
10 government investigations and enforcement actions, and legal exposure otherwise, and Amazon's
11 revenues were, at least in part, the product of impermissible and illegal conduct, and were thus
12 unsustainable at all relevant times.

13 7. In addition, as a result of the Individual Defendants' breaches of fiduciary duties
14 detailed herein, the Company has suffered significant damages, including being named as a
15 defendant in the Securities Class Action, Consumer Class Actions, and Antitrust Actions, as well
16 as becoming the subject of a criminal investigation ("Criminal Investigation") by the U.S.
17 Department of Justice ("DOJ") and a government probe into Amazon's public disclosures
18 regarding its business practices by the SEC ("SEC Probe"), and the Company continues to be
19 subjected to mounting damages by failing to redress the harms complained of herein.

20 8. The Individual Defendants face a substantial likelihood of liability to the Company
21 for their misconduct, including, among other things: (i) directly participating in the improper
22 schemes and misconduct described herein; (ii) affirmatively making, allowing to be made, and/or
23 failing to correct improper statements in SEC filings and other public disclosures relating to the
24 Company's business and operations, internal controls, legal proceedings, legal compliance, and

1 risks (including financial, operational, legal, regulatory, and enforcement risks); (iii) failing to
2 maintain an adequate system of oversight, accounting controls and procedures, disclosure controls,
3 and other internal controls, which were necessary to prevent or correct violations of the law and
4 improper statements made on the Company's behalf; (iv) failing to ensure the Company's
5 compliance with relevant legal and regulatory requirements, including, but not limited to,
6 requirements imposed under biometric privacy laws and antitrust laws, as well as state and federal
7 securities laws; and (v) ignoring red flags indicating inadequate internal controls over compliance
8 with biometric privacy laws and antitrust laws, as well as state and federal securities laws, and
9 indicating violations the same.

10 9. Due to the Amazon Board of Directors' (the "Board") knowledge of illegal conduct
11 and involvement in the wrongdoing, its blatant failure to act (including to stop or correct violations
12 of the law), its members' lack of independence, and the substantial likelihood of liability its
13 members face, any demand upon the Board to rectify this wrongdoing would be a wasteful, useless,
14 and futile act. Accordingly, Plaintiff properly brings this action to remedy the harm to Amazon
15 caused by Defendants' faithless actions and inaction.

16 **II. JURISDICTION AND VENUE**

17 10. This Court has jurisdiction under 28 U.S.C. § 1332. Complete diversity among the
18 parties exists and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

19 11. This Court has jurisdiction over each named Defendant.

20 12. Additionally, this Court has specific jurisdiction over each named Defendant herein
21 because each Defendant is either a corporation that conducts business in and maintains operations
22 in this District, or is an individual who has sufficient minimum contacts with this District so as to
23 render the exercise of jurisdiction by the District Court permissible under traditional notions of
24 fair play and substantial justice.

13. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 because: (i) Amazon maintains executive offices in this District; (ii) one or more of the Defendants either resides in or maintains executive offices in this District; (iii) a substantial portion of the transactions and wrongs complained of herein, including the Defendants' primary participation in the wrongful acts detailed herein, and aiding and abetting and conspiracy in violation of fiduciary duties owed to Amazon occurred in this District; and (iv) Defendants have received substantial compensation in this District by doing business here and engaging in numerous activities that had an effect in this District.

III. THE PARTIES

A. Plaintiff

14. Plaintiff was an Amazon stockholder at the time of wrongdoing complained of, has continuously been a stockholder since that time, and is a current Amazon stockholder.

15. Plaintiff is a citizen of the State of Pennsylvania.

B. Nominal Defendant

16. Nominal Defendant Amazon is a publicly traded Delaware corporation with its principal executive offices located at 410 Terry Avenue North, Seattle, Washington.

17. The Company's common stock trades on the NASDAQ under the ticker symbol "AMZN." Amazon has over 508 million shares of common stock outstanding.

C. Defendants

18. Defendant Jeffrey P. Bezos ("Bezos") is the founder and Executive Chair of Amazon's Board of Directors. Throughout the relevant period, Amazon has paid Defendant Bezos the following compensation:

Year	Salary	Stock Awards	All Other Compensation	Total
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2021	\$81,840	-	\$1,600,000	\$1,681,840
2020	\$81,840	-	\$1,600,000	\$1,681,840
2019	\$81,840	-	\$1,600,000	\$1,681,840
2018	\$81,840	-	\$1,600,000	\$1,681,840

19. Upon information and belief, Defendant Bezos is a citizen of the State of Washington.

20. Defendant Andrew R. Jassy (“Jassy”) is the President and Chief Executive Officer of Amazon and also serves on its Board of Directors. He founded Amazon Web Services and served as CEO of from April 2016 to July 2021.

21. Throughout the relevant period, Amazon has paid Defendant Jassy the following compensation:

Year	Salary	Stock Awards	All Other Compensation	Total
2021	\$175,000	\$211,933,520	\$592,649	\$212,701,169
2020	\$175,000	\$35,639,068	\$34,381	\$35,848,449
2019	\$175,000	-	\$173,809	\$348,809
2018	\$175,000	\$19,466,434	\$91,232	\$9,732,666

22. Upon information and belief, Defendant Jassy is a citizen of the State of Washington.

23. Defendant Brian T. Olsavsky (“Olsavsky”) is the Senior Vice President and Chief Financial Officer of Amazon. Throughout the relevant period, Amazon has paid Defendant Olsavsky the following compensation:

Year	Salary	Stock Awards	All Other Compensation	Total
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2021	\$160,000	-	\$3,200	\$163,200
2020	\$160,000	\$17,010,985	\$3,200	\$17,174,185
2019	\$160,000	-	\$3,200	\$163,200
2018	\$160,000	\$6,770,149	\$3,200	\$6,933,349

24. Upon information and belief, Defendant Olsavsky is a citizen of the State of Washington.

25. Defendant David H. Clark (“Clark”) is the Chief Executive Officer of Worldwide Consumer. On June 3, 2022, Clark abruptly announced his resignation from Amazon, effective July 1, 2022. Throughout the relevant period, Amazon has paid Defendant Clark the following compensation:

Year	Salary	Stock Awards	All Other Compensation	Total
2021	\$175,000	\$55,589,120	\$310,451	\$56,074,571
2020	\$160,000	\$46,121,888	\$6,783	\$46,288,671

26. Upon information and belief, Defendant Clark is a citizen of the State of Texas.

27. Defendant Shelley L. Reynolds (“Reynolds”) is Amazon’s Vice President, Worldwide Controller and Principal Accounting Officer. Upon information and belief, Defendant Reynolds is a citizen of the State of Washington.

28. Defendant Adam N. Selipsky (“Selipsky”) is the Chief Executive Officer of Amazon Web Services. Throughout the relevant period, Amazon has paid Defendant Selipsky the following compensation:

Year	Salary	Stock Awards	All Other Compensation	Total
2021	\$109,722	\$81,294,756	\$49,045	\$81,453,523

29. Upon information and belief, Defendant Selipsky is a citizen of the State of Washington.

30. Defendant David Zapolsky (“Zapolsky”) is Amazon’s Vice President, General Counsel and Secretary. Throughout the relevant period, Amazon has paid Defendant Zapolsky the following compensation:

Year	Salary	Stock Awards	All Other Compensation	Total
2021	\$160,000	-	\$3,200	\$163,200
2020	\$160,000	\$17,010,985	\$3,200	\$17,174,185

31. Upon information and belief, Defendant Zapolsky is a citizen of the State of Washington.

32. Defendant Keith B. Alexander (“Alexander”) has served a director of the Company since September 2020. In addition, he also serves as a member of the Audit Committee. Amazon compensated Defendant Alexander at least \$934,297 in Stock Awards in 2020. Upon information and belief, Defendant Alexander is a citizen of the State of Michigan.

33. Defendant Edith W. Cooper (“Cooper”) has served as a director of the Company since September 2021. In addition, she also serves as a member of the Leadership Development and Compensation Committee. Amazon compensated Defendant Cooper at least \$958,171 in Stock Awards in 2021. Upon information and belief, Defendant Cooper is a citizen of the State of Connecticut.

34. Defendant Jamie S. Gorelick (“Gorelick”) has served as a director of the Company since February 2012. In addition, she also serves as Chair of the Nominating and Corporate Governance Committee. Amazon compensated Defendant Gorelick at least \$938,533 in Stock Awards in 2020 and \$952,741 in Stock Awards in 2018. Upon information and belief, Defendant Gorelick is a citizen of State of Maryland.

1 35. Defendant Daniel P. Huttenlocher (“Huttenlocher”) has served as a director of the
2 Company since September 2016. In addition, he also serves as a member of the Leadership
3 Development and Compensation Committee. Amazon compensated Defendant Huttenlocher at
4 least \$951,489 in Stock Awards in 2019. Upon information and belief, Defendant Huttenlocher is
5 a citizen of the State of New York.

6 36. Defendant Judith A. McGrath (“McGrath”) has served as a director of the Company
7 since July 2014. In addition, she also serves as Chair of the Leadership Development and
8 Compensation Committee. Amazon compensated Defendant McGrath at least \$934,297 in Stock
9 Awards in 2020. Upon information and belief, Defendant McGrath is a citizen of the State of
10 California.

11 37. Defendant Indra K. Nooyi (“Nooyi”) has served as a director of the Company since
12 February 2019. In addition, she also serves as Chair of the Audit Committee. Amazon
13 compensated Defendant Nooyi at least \$901,729 in Stock Awards in 2019. Upon information and
14 belief, Defendant Nooyi is a citizen of the State of Connecticut.

15 38. Defendant Jonathan J. Rubinstein (“Rubinstein”) has served as a director of the
16 Company since December 2010. In addition, he also serves as Lead Director and as a member of
17 the Nominating and Corporate Governance Committee. Amazon compensated Defendant
18 Rubinstein at least \$951,489 in Stock Awards in 2019. Upon information and belief, Defendant
19 Rubinstein is a citizen of the State of California.

20 39. Defendant Patricia Q. Stonesifer (“Stonesifer”) has served as a director of the
21 Company since February 1997. In addition, she also serves as a member of the Nominating and
22 Corporate Governance Committee. Amazon compensated Defendant Stonesifer at least \$951,489
23 in Stock Awards in 2019. Upon information and belief, Defendant Stonesifer is a citizen of the
24 District of Columbia.

1 40. Defendant Wendell P. Weeks (“Weeks”) has served as a director of the Company
 2 since February 2016. In addition, he also serves as a member of the Audit Committee. Amazon
 3 compensated Defendant Weeks at least \$929,992 in Stock Awards in 2019 and at least \$999,026
 4 in Stock Awards in 2021. Upon information and belief, Defendant Weeks is a citizen of the State
 5 of New York.

6 41. Defendant Tom A. Alberg (“Alberg”) served as a director of the Company from
 7 June 1996 until May 2019. In addition, he also served as a member of the Audit Committee. Upon
 8 information and belief, Defendant Alberg is a citizen of State of Washington.

9 42. Defendant Rosalind Brewer (“Brewer”) served as a director of the Company from
 10 February 2019 until February 16, 2021. Amazon compensated Defendant Brewer at least
 11 \$929,992 in Stock Awards in 2019. Upon information and belief, Defendant Brewer is a citizen
 12 of the State of Washington.

13 43. Defendant Thomas O. Ryder (“Ryder”) served as a director of the Company from
 14 November 2002 until December 31, 2021. In addition, he served as a member of the Leadership
 15 Development and Compensation Committee and as Chair of the Audit Committee. Amazon
 16 compensated Defendant Ryder at least \$951,489 in Stock Awards in 2019. Upon information and
 17 belief, Defendant Ryder is a citizen of the State of Washington.

18 44. Defendant Nate Sutton (“Sutton”) served as Amazon’s Associate General Counsel
 19 at all relevant times. Upon information and belief, Defendant Sutton is a citizen of the State of
 20 Washington.

21 45. Collectively, Defendants Bezos, Jassy, Olsavsky, Clark, Reynolds, Selipsky,
 22 Sutton, and Zapolsky are referred to herein as the “Officer Defendants.”

23 46. Collectively, Defendants Bezos, Jassy, Alexander, Cooper, Gorelick, Huttenlocher,
 24 McGrath, Nooyi, Rubinstein, Stonesifer, Weeks, Alberg, Brewer, and Ryder are referred to herein

1 as the “Director Defendants.”

2 47. Collectively, Defendants Alexander, Nooyi, Weeks, Alberg, and Ryder are referred
3 to herein as the “Audit Committee Defendants.”

4 48. Collectively, Defendants Gorelick, Rubinstein, and Stonesifer are referred to herein
5 as the “Nominating and Corporate Governance Committee Defendants.”

6 49. Collectively, Defendants Cooper, Huttenlocher, McGrath, and Ryder are referred
7 to herein as the “Leadership Development and Compensation Committee Defendants.”

8 50. Collectively Defendants Bezos, Jassy, Olsavsky, Clark, Reynolds, Selipsky,
9 Zapolsky, Alexander, Cooper, Gorelick, Huttenlocher, McGrath, Nooyi, Rubinstein, Stonesifer,
10 Weeks, Alberg, Brewer, Ryder, and Sutton are referred to herein as the “Individual Defendants.”

11 51. Collectively Defendants Bezos, Jassy, Alexander, Cooper, Gorelick, Huttenlocher,
12 McGrath, Nooyi, Rubinstein, Stonesifer, and Weeks are referred to herein as the “Demand Board.”

13 **IV. THE INDIVIDUAL DEFENDANTS’ MISCONDUCT**

14 **A. Company Background: Amazon Is the Dominant Online Marketplace** 15 **in the United States**

16 52. Founded in 1994, Amazon is now one of the world’s largest, most ubiquitous
17 companies, as well as the world’s largest retailer outside of China. It is the second largest private
18 employer in the United States and provides products and services including online retail, smart
19 home devices, cloud computing, and media streaming—including its own film and television
20 content. Originally an online book retailer, Amazon quickly expanded into music and videos, and
21 eventually electronics, toys, and other products prior to 2000. Presently, nearly any physical or
22 digital product imaginable can be purchased on Amazon worldwide.

23 53. Amazon accounts for between 50-70% of total sales through online marketplaces.
24 The marketplace shares of the next two largest online marketplaces—Walmart.com and eBay—

1 are in the single digits, by comparison. Millions of TPSs sell through Amazon's online
2 marketplace, whereas for example, only 110,000 TPSs sell on Walmart.com. Amazon is the
3 dominant online marketplace.

4 **B. Biometrics and Facial Recognition Technology**

5 54. Further expanding on its retail business, Amazon launched its cloud-computing
6 subsidiary, Amazon Web Services ("AWS"), in 2002. AWS provides a range of services to
7 business and individuals including web hosting, storage, distributed computing, and analytics.
8 Amazon is now the largest cloud computing service provider in the world. As part of the more
9 than 200 services provided to its customers, AWS regularly receives, processes, and stores
10 personal information of various individuals that provide this information to its customers.

11 55. In 2014, Amazon began its foray into being an active presence in its customers'
12 homes with its Alexa virtual assistant. Amazon's Alexa is now found on countless devices in
13 millions of households, including on smartphones, televisions, speakers, as well as in Amazon's
14 Echo products. As part of its services, Amazon's Alexa recognizes and stores details related to
15 voice patterns and makes and stores recordings of its interactions with users. Biometrics is the
16 technical term for measurements used to identify people's unique physical characteristics.
17 Examples of biometric identifiers include an individual's DNA, fingerprints, irises or retinas,
18 voiceprints, and facial geometry. The uniqueness and potential permanence of biometric
19 identifiers present an advantage for businesses to accurately identify and distinguish individuals.
20 Businesses presently use biometrics in a wide variety of applications, including data collection.

21 56. One technological application of biometrics is facial recognition software. Facial
22 recognition software uses biometrics to map facial features from a photograph or video. In
23 particular, the software uses an algorithm that calculates a unique digital representation of the face
24 based on the geometric relationship of a person's facial features (such as the distance between their

1 eyes, ears, and nose), creating a face signature or map. The software then compares the
2 information with a database of known faces to find a match.

3 57. Facial recognition technology has been in use for many decades and is one of the
4 most widely used biometrics. Facial recognition technology uses the layout of facial features and
5 their distance from one another for identification against a “gallery” of faces with similar
6 characteristics. These characteristics can be derived from either a still or video images. Using
7 statistics, facial recognition algorithms can measure the differences between the face being
8 searched and the enrolled faces in a gallery. The smaller the difference, the more likely those faces
9 match.

10 58. Facial recognition technology is primarily used for three different types of
11 applications: first, facial recognition technology can anonymously characterize faces. This allows
12 for counting unique faces presented to the sensor over a period of time (sometimes called a “people
13 counter”). Other functions include estimating the age, gender, ethnic origin, and even body mass
14 index of each unique face thus encountered, usually for marketing purposes. Second, facial
15 recognition technology can verify a face against a known image. For example, this would allow
16 for confirmation that a face presented at a border checkpoint matches the digital face embedded in
17 a document. It also allows for access control, such as at the entrance of a building with a known
18 and restricted population. This function is typically called “verification.” Third, facial recognition
19 technology allows for identification of a face against a number of known faces within a database.
20 For example, this allows for the technology to see if a criminal or terrorist in a surveillance video
21 matches any mug shot photos of people previously arrested or convicted. This function is typically
22
23
24

1 called “identification.”³

2 59. Facial recognition technology has improved over the past decade. Lower costs and
3 increased accuracy have allowed companies like Amazon to deploy increasingly sophisticated
4 facial recognition software in their applications—but it also has raised serious privacy concerns.

5 60. Biometrics present significant potential privacy threats to the individual if they are
6 compromised, such as a heightened risk for identity theft. While biometrics have been touted as a
7 way to improve security and potentially limit fraud, the use of biometrics raise grave concerns
8 about potential constant and surreptitious surveillance of individuals by the government and
9 private entities. Additionally, if a person’s biometric data is compromised, the harm could be
10 irreparable because this data would remain compromised. While other types of theft, such as
11 compromising of bank accounts or credit card numbers, can be mitigated by obtaining new account
12 information, people cannot obtain new biometric data facial bone structure or DNA. Additionally,
13 significant privacy concerns surround the use of biometric data. These concerns include
14 employers’ ability to discover protected health information; ambiguous standards concerning
15 when biometric information can be shared, including with law enforcement; and multimodal big
16 data storage, in which multiple images and various types of biometrics are stored in a database for
17 widespread use.

18 61. Due to the growing concern over the use of biometrics and facial recognition
19 technology, state laws, including in Illinois and Texas, prohibit commercial entities from capturing
20 an individual’s biometric identifier without his or her consent. Both states also require businesses
21 to protect biometrics using a reasonable standard of care that is the same as, or more protective
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23 ³ “Face Biometrics.” IBIA, [https://www.ibia.org/biometrics-and-identity/biometric-](https://www.ibia.org/biometrics-and-identity/biometric-technologies/face)
24 [technologies/face](https://www.ibia.org/biometrics-and-identity/biometric-technologies/face). Accessed 1 Apr. 2022.

1 than, that used for other confidential or sensitive information. They also prohibit selling or
 2 disclosing a biometric without consent, with certain exceptions, such as for law enforcement
 3 purposes. In addition, at least 19 states restrict using, disclosing or sharing biometric data by either
 4 public or private entities, or require security measures, such as encrypting or properly destroying
 5 records with biometrics. And at least 20 states have enacted legislation to protect the personal
 6 biometric information of students or minors.

7 **C. The Illinois Biometric Information Privacy Act**

8 62. In 2008, the Illinois General Assembly enacted the Illinois BIPA to enhance the
 9 state's "limited State law regulating the collection, use, safeguarding, and storage of biometrics[.]"
 10 740 Ill. Comp. Stat. § 14/5(e). BIPA defines a "biometric identifier" as including a "scan of hand
 11 or face geometry." 740 Ill. Comp. Stat. § 14/10. The legislature noted that "[b]iometrics are unlike
 12 other unique identifiers that are used to access finances or other sensitive information," because
 13 while social security numbers can be changed if compromised, biometric data are "biologically
 14 unique to the individual," and "once compromised, the individual has no recourse, is at heightened
 15 risk for identity theft, and is likely to withdraw from biometric-facilitated transactions." 740 Ill.
 16 Comp. Stat. § 14/5(c).

17 63. BIPA defines "biometric information" as:

18 a retina or iris scan, fingerprint, voiceprint, or scan of hand or face geometry.
 19 Biometric identifiers do not include writing samples, written signatures,
 20 photographs, human biological samples used for valid scientific testing or
 21 screening, demographic data, tattoo descriptions, or physical descriptions such as
 22 height, weight, hair color, or eye color. Biometric identifiers do not include donated
 23 organs, tissues, or parts as defined in the Illinois Anatomical Gift Act or blood or
 24 serum stored on behalf of recipients or potential recipients of living or cadaveric
 transplants and obtained or stored by a federally designated organ procurement
 agency. Biometric identifiers do not include biological materials regulated under
 the Genetic Information Privacy Act. Biometric identifiers do not include
 information captured from a patient in a health care setting or information collected,
 used, or stored for health care treatment, payment, or operations under the federal

1 Health Insurance Portability and Accountability Act of 1996. Biometric identifiers
 2 do not include an X-ray, roentgen process, computed tomography, MRI, PET scan,
 3 mammography, or other image or film of the human anatomy used to diagnose,
 4 prognose, or treat an illness or other medical condition or to further validate
 5 scientific testing or screening.

6 740 ILCS 14/10.

7 64. Under BIPA, a company may not collect or otherwise obtain a person or a
 8 customer's biometric identifier or biometric information without informing the subject in writing
 9 and securing a written release. Nor may a company profit from an individual's biometric identifiers
 10 and information. Moreover, companies must have a public, written policy establishing a retention
 11 schedule for biometric identifiers and information and guidelines for their permanent destruction.
 12 BIPA, §§ 14/15(a)–(e).

13 65. BIPA provides for a private right of action. For negligent violations of the Act,
 14 BIPA provides for liquidated damages of \$1,000 or actual damages, whichever is greater for each
 15 violation; and in the case of intentional or reckless violations, statutory damages in the amounts of
 16 \$5,000 or actual damages, whichever is greater for each violation. BIPA also provides for
 17 reasonable attorneys' fees and costs, including expert witness fees and other litigation expenses,
 18 and any other relief, including an injunction, as the state or federal court may deem appropriate.

19 **D. Other State Laws Also Restrict Capture and Use of Biometric Data**

20 66. Since 2009, Texas has also had a biometric privacy act that prohibits the capture of
 21 an individual's biometric identifiers for a commercial purpose unless the individual is first
 22 informed and has consented to such data collection, the Capture or Use of Biometric Identifier Act
 23 ("CUBI"). The law also limits the sale or disclosure of an individual's biometric information
 24 except under limited circumstances. In the law, "biometric identifier" means a retina or iris scan,
 fingerprint, voiceprint, or recording of hand or face geometry.

1 67. A violation of the Texas law is subject to a civil penalty of not more than \$25,000
 2 for each violation. The attorney general may bring an action to recover the civil penalty. Unlike
 3 BIPA, there is no statutory private right of action under the CBUI, but government enforcement
 4 for violation of the CBUI poses enforcement risks in the millions of dollars. Therefore, there is
 5 substantial civil exposure for noncompliance.

6 68. In 2017, the State of Washington became the third state to enact a targeted biometric
 7 privacy law, HB 1493. Since then, the states of Arkansas, California, and New York have
 8 expanded cybersecurity data breach notification statutes to include protections for biometric data.
 9 The states of Delaware, Michigan, Massachusetts, Arizona, and Alaska currently have legislation
 10 pending concerning protecting biometric data.

11 69. Underscoring the legal risks and magnitude of exposure, Facebook Inc.
 12 (“Facebook”) recently reached a \$650 million settlement for alleged violations of Illinois’ BIPA
 13 for their use of facial recognition software without permission from affected users. The Texas
 14 Attorney General has sued Facebook for alleged violations of the Texas Business and Commercial
 15 Code, which contains provisions governing the collection, retention and disclosure of biometric
 16 data.

17 70. Given this legal and regulatory landscape, according to Defendant Bezos, serving
 18 as the Company CEO, “Privacy is the one aspect of Alexa that Amazon can’t afford to screw up.”

19 **E. Amazon’s Collection and Use of Biometric Data**

20 71. Rekognition, which launched in November 2016, is Amazon's core facial
 21 recognition product. Rekognition allows users to match new images of faces with existing, known
 22 facial images “based on their visual geometry, including the relationship between the eyes, nose,
 23 brow, mouth, and other facial features.” Rekognition is a cornerstone of many of Amazon's largest
 24 consumer products and services, including its photo platform, Amazon Photos, its smart home

1 systems and cameras, and its virtual assistant technology, Alexa.

2 72. Amazon is also the largest provider of facial recognition technology to law
3 enforcement agencies. The Company has marketed its Rekognition software to agencies such as
4 the U.S. Immigration and Customs Enforcement and the Federal Bureau of Investigation, to
5 monitor individuals they consider “people of interest.” Amazon has also partnered with more than
6 1,300 law enforcement agencies, allowing them to use footage from their Ring home security
7 cameras in criminal investigations. Amazon has expanded these efforts marketing their facial
8 recognition software to government agencies despite warnings from consumers, employees,
9 members of Congress, and stockholders.

10 73. In July 2018, the American Civil Liberties Union of Northern California (“ACLU”)
11 published the results of a study it conducted regarding Rekognition's accuracy. According to the
12 study, Rekognition incorrectly matched twenty-eight members of the U.S. Congress to people who
13 had been arrested for a crime. The false matches disproportionately involved people of color. That
14 summer, nearly seventy civil rights and research organizations wrote a letter to Bezos demanding
15 that Amazon stop providing facial recognition technology to governments. In their letter, they
16 called the Company to “stand up for civil rights and civil liberties,” stating “Rekognition is a
17 powerful surveillance system readily available to violate rights and target communities of color.”
18 Amazon's own employees demanded the Company to stop selling its Rekognition facial
19 recognition software to law enforcement, citing concerns over the “unique threat to civil rights and
20 especially to the immigrants and people of color under attack by [President Donald J. Trump's]
21 administration.”

22 74. To improve the accuracy of its facial recognition products and technologies,
23 Amazon purportedly obtained a data set from IBM, referred to as the “Diversity in Faces Dataset”
24 after IBM made it available to for-profit companies in early 2019.

1 75. To access the Diversity in Faces Dataset, Amazon used the links provided by IBM
 2 to download or otherwise obtain from the Flickr Dataset each photograph in order to associate the
 3 biometric identifiers and information provided by IBM with the actual photographs to which the
 4 biometric data related. Amazon's collection and use of the Diversity in Faces Dataset allowed it
 5 to profit from such data, including data of Illinois residents obtained and used without their
 6 consent, by allowing Amazon to improve the effectiveness of its own facial recognition technology
 7 and products.

8 76. Additionally, Amazon Alexa and Echo devices are designed to record and respond
 9 to communications immediately after an individual says a wake word (usually “Alexa” or “Echo”).
 10 If the wake word is recognized, Alexa records the ensuing communication and then transmits the
 11 recording to Amazon’s servers for interpretation and processing before receiving the relevant data
 12 in response. Alexa also records surrounding voices and sounds once activated, including those not
 13 spoken by the user conversing with Alexa. Amazon uses voice recognition technology to
 14 surreptitiously collect, use, and store voiceprints of its users to identify them, as well as using voice
 15 pattern data in conjunction with other customer data for its recognition capabilities. Such
 16 recordings are retained as part of a user’s account unless a user actively deletes them. Alexa
 17 capability can be found on more than 100 million devices sold since January 2020.⁴ These include
 18 televisions, light bulbs, smart locks, phones, thermostats, appliances, speakers, and vehicles, in
 19 addition to Amazon’s own line of Echo products.

20 77. Finally, as part of Amazon’s suite of services offered through AWS to its numerous
 21 commercial customers, AWS also stores various types of personal identifying information (“PII”),

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 23 ⁴ Rubin, Ben Fox. “Amazon's Alexa World Just Got Much Bigger.” CNET, 6 Jan. 2020,
 24 <https://www.cnet.com/home/smart-home/amazon-sees-alexa-devices-more-than-double-in-just-one-year/>. Accessed 1 Apr. 2022.

1 including biometric information, that is collected by those customers. Such information can
2 include, for example, fingerprints or hand scans of an AWS customer's employees for security and
3 identification purposes. Additionally, AWS stores PII of the individual customers of its
4 commercial AWS customers, such as voiceprints used to identify callers to a call center or even
5 the scanned facial geometry of players of video games.

6 78. In and around September 2021, Amazon announced a series of new updates,
7 focusing on the biometric capabilities of some of its hardware products, as well as on the
8 company's AWS marketplace.⁵ By way of example, at its Enterprise Connect event on Monday
9 September 27, 2021, the retail giant announced three new capabilities for Amazon Connect for
10 contact centers. According to the company's new data, tens of thousands of AWS customers are
11 supporting more than 10 million contact center interactions a day on Amazon Connect. The new
12 platform updates employ voice biometrics via AWS's caller authentication tool Amazon Connect
13 Voice ID. The biometric solution reportedly provides real-time caller authentication and enables
14 voice access via machine learning by analyzing the caller's speech attributes, like rhythm, pitch,
15 and tone. Another biometric update unveiled by Amazon at its product launch event related to the
16 Echo Show 15, and its face biometrics capabilities. The novel Visual ID biometrics feature enables
17 Alexa devices to show users personalized recommendations, calendars, to-do lists, and more when
18 their faces enter the camera's field of vision.

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20
21
22 ⁵ Mascellino, Alessandro. "Amazon Unveils Series of Face and Voice Biometrics Updates."
23 Biometric Update, BiometricUpdate.com, 30 Sept. 2021,
24 [https://www.biometricupdate.com/202109/amazon-unveils-series-of-face-and-voice-biometrics-](https://www.biometricupdate.com/202109/amazon-unveils-series-of-face-and-voice-biometrics-updates)
[updates](https://www.biometricupdate.com/202109/amazon-unveils-series-of-face-and-voice-biometrics-updates). Accessed 1 Apr. 2022.

F. Amazon Employs Anti-Competitive Business Practices Designed to Maintain Its Dominance as Both an Online Marketplace and Retailer

79. As a multi-seller online marketplace, Amazon competes with other multi-seller online marketplaces, like eBay, to sell hosting and other services to TPSs that want to sell their products online to consumers. Amazon also competes with both multi-seller and single-seller online marketplaces (for example, a TPS's own website on which it sells its products online to consumers) to attract consumer traffic to its marketplace and sales therefrom.

80. Amazon competes not just as an online marketplace, but also with respect to products that it sells directly to consumers through its online marketplace. Thus, Amazon is both the gatekeeper to its dominant online marketplace, and it is also a significant competitor for sales of many products sold by the TPSs using Amazon's online marketplace.

81. In its capacity as a retailer, Amazon sells goods that it buys from manufacturers and wholesalers that Amazon refers to as First Party Sellers ("FPSs").

82. Given the dominance of Amazon's online marketplace wherein it hosts millions of TPSs, in order for many TPSs to successfully sell online, they must have a presence on Amazon.⁶

83. Amazon's online marketplace dominance is protected by substantial barriers to

⁶ Online marketplaces are separate and distinct from brick-and-mortar or physical marketplaces. The Federal Trade Commission and U.S. House of Representatives' Subcommittee on Antitrust, Commercial, and Administrative Law of the Committee on the Judiciary recognize this fact; likewise, consumers do not consider online and physical markets to be substitutes for one another. Consumers using online marketplaces can shop for a virtually unlimited range of products without limitation based on geographic area, time of day or day of the week, and can more easily compare competing offers on similar goods. Sellers similarly recognize the superiority of online marketplaces to physical ones for these same reasons, among others. Thus, online and physical marketplaces are not close substitutes for one another.

entry,⁷ as well as its anti-competitive business practices. These include Amazon’s (i) former Price Parity Provision; (ii) current Fair Pricing Policy; and (iii) new Minimum Margin Agreement.

a. Price Parity Provision

84. In order to sell their products through Amazon’s online marketplace, TPSs execute Amazon’s Business Solutions Agreement (“BSA”). Until at least 2019 in the United States, TPSs agreed through the BSA that they would not offer their products through other online marketplaces, including their *own* websites, at a lower price or on better terms than those TPSs offered through Amazon’s marketplace (the “Price Parity Provision” or “PPP” of the BSA). Specifically, through the PPP, TPSs agreed that the “purchase price and every other term of sale [would] be at least as favorable to Amazon Site users as the most favorable terms via Your Sales Channels.”

85. Through the PPP, Amazon insulated its dominance by forcing TPSs to charge the same prices on other online marketplaces, which reduced the ability of those other online marketplaces to gain consumer traffic and sales by offering TPSs lower fees and commissions so that the TPSs could in turn charge lower prices to consumers and still maintain their same profits on those marketplaces. This provision artificially raised the price of goods to consumers across online marketplaces because TPSs were forced to incorporate Amazon’s high fees and commissions into their product prices not only when selling through Amazon’s marketplace, but also when selling through *any* competing online marketplaces. These price restrictions resulted in

⁷ For example, digital markets tend to be characterized by strong network effects, making them prone to monopolization, which are reinforced by Amazon’s Prime program (which has enabled Amazon to build a massive customer base—126 million Prime members in the U.S. alone), the massive amounts of data Amazon collects regarding its buyers and sellers (*e.g.*, pricing and revenue data, customer reviews, and data regarding items viewed by customers), and Amazon’s use of its delivery and logistics services to further solidify its online marketplace dominance—85% of the top 10,000 TPSs use Amazon’s FBA logistics and delivery services.

1 less competition and innovation, and higher prices and less choices for consumers.

2 86. The PPP also protected Amazon from competition as a retailer in individual product
3 markets. Amazon and TPSs compete to sell certain products directly to consumers, and the PPP
4 ensured that the high commissions and fees that Amazon charged to TPSs were incorporated in
5 the price everywhere that the TPS offered its products online, thereby reducing the price
6 competition on Amazon's own retail offerings that competed with a TPS's given product.

7 **b. Fair Pricing Policy**

8 87. In 2019, under scrutiny from Congress and U.S. government regulators, Amazon
9 removed the PPP from the BSA, but it quickly replaced the PPP with a virtually identical provision,
10 the Fair Pricing Policy ("FPP").

11 88. Specifically, in December 2018, U.S. Senator Richard Blumenthal of Connecticut
12 wrote the U.S. DOJ and the Federal Trade Commission to express his concerns about Amazon's
13 use of the PPP, stating, in part, that "Amazon's price parity provisions may raise prices for
14 consumers both in the short term and in the long run." He concluded that regulators could "easily
15 establish that Amazon has the high market share typically necessary to bring successful litigation
16 under Section 2 [of the Sherman Act]." Months later, in March 2019, Amazon removed the PPP
17 from the BSA and replaced it with the FPP.

18 89. Now, TPSs agree through the BSA to abide by Amazon's FPP, which permits
19 Amazon to impose sanctions on a TPS that offers a product for a lower price or on better terms
20 through a competing online marketplace. These sanctions can include cancellation of listings,
21 suspension or forfeiture of payments, and even banishment of the TPS from Amazon's online
22 marketplace, which in many cases, would have devastating economic consequences for the TPS.

23 90. Specifically, the FPP provides:
24

1 Amazon regularly monitors the prices of items on our marketplaces, including
2 shipping costs, and compares them with other prices available to our customers. If
3 we see pricing practices on a marketplace offer that harms customer trust, Amazon
4 can remove the Buy Box, remove the offer, suspend the ship option, or, in serious
5 or repeated cases, suspend[] or terminat[e] selling privileges.

6 Pricing practices that harm customer trust include, but are not limited to: . . . setting
7 a price on a produce or service [on Amazon's platform] that is significantly higher
8 than recent prices offered on or off Amazon.

9 91. Amazon strictly enforces these policies using an extensive network of electronic
10 surveillance and employees to monitor the prices of TPSs's products offered through other online
11 marketplaces. When Amazon discovers a TPS offering the same or similar products through a
12 competitor online marketplace at a lower price, it sends the TPSs pricing alert warning the TPS
13 that its product is no longer eligible for the "Buy Box," the featured offer on any product page.
14 TPSs regularly receive these alerts. Given the importance of the Buy Box feature, this punishment
15 can be devastating for TPSs.

16 92. Amazon also punishes TPSs for failing to comply with these policies by freezing
17 TPSs' inventory, placing holds on accounts and payments from Amazon online marketplace sales,
18 and suspending or revoking TPSs's accounts entirely. TPSs regularly increase their prices on other
19 online marketplaces in order to avoid Amazon's sanctions.

20 93. Amazon further punishes a TPS if a different seller obtains and sells the TPS's
21 products for less on a competing online marketplace, thereby further controlling pricing by
22 incentivizing TPSs to monitor whether its products are being sold by other sellers for less than the
23 price offered on Amazon. This is the case even for products that are "similar," even though these
24 purportedly similar products are often distinguishable in quality or function.

94. These policies insulate Amazon from competition as a retailer as well. Amazon
directly competes with over half of its TPSs selling similar substitutable products to online

1 customers. These fees, however, ensure that TPS products are offered at artificially high prices—
 2 not only on Amazon, but all other online marketplaces that compete with amazon, including the
 3 TPS's own website. This, of course, reduces a TPS's ability to compete with Amazon's
 4 substitutable products.

5 **c. Additional Fees Imposed on TPSs**

6 95. Subject to execution of the BSA and agreement to the PPP/FPP, a TPS may begin
 7 selling on Amazon, but to do so, it must pay Amazon certain fees and commissions.

8 96. Specifically, TPSs can either fulfill their own orders or they can select "Fulfillment
 9 by Amazon," or FBA. When a TPS sells FBA, Amazon charges additional fees to handle
 10 inventory, shipping, collection of payments, processing returns, and crediting the TPS's account.
 11 Many TPSs pay Amazon a 40% sales commission by virtue of these and other fees.

12 97. TPSs are forced to sell FBA and pay these fees because it is the primary means by
 13 which a TPS's products become eligible for the "Buy Box" and thus obtain profitable sales levels.
 14 When Amazon and one or more TPSs offer the same or similar products on Amazon, Amazon
 15 combines all offers onto one product page with one product being awarded the "Featured Offer"
 16 or "Buy Box." This product is the most visible to consumers on the product detail page and the is
 17 the easiest to purchase.

18 98. The Buy Box is critical for TPSs. 82% of all TPSs' sales through Amazon occur
 19 through the Buy Box, and the percentage is higher for mobile purchases. Many consumers will
 20 not even see a TPS's product unless it appears in the Buy Box, placing those TPSs without the
 21 Buy Box at a significant disadvantage. The Buy Box does not signify the best product or the
 22 highest rated by consumers; rather, Amazon determines the winner for the Buy Box based on
 23 factors that reinforce Amazon's dominance in the online marketplace.

24 99. According to a ProPublica investigation, roughly 75% of the time, Amazon

1 awarded the Buy Box to its own products and to companies that pay for its auxiliary online
2 marketplace services even in cases where substantially more affordable product offerings from
3 other TPSs were available.

4 100. Competitor online marketplaces charge TPSs much lower fees and commissions.
5 For example, Walmart.com's Fulfillment Services program charges a fixed monthly storage fee
6 and fulfillment/delivery fees that are substantially less than Amazon's fees. Likewise, eBay
7 generally offers at least 50 free product listings before charging a \$0.35 product listing fees, such
8 that its fees, too, are generally well below Amazon's.

9 101. These fees generate significant revenues for Amazon. From 2014 to 2020,
10 Amazon's revenue from TPS fees and charges ballooned from \$11.75 billion to over \$80 billion.
11 Amazon's TPS service revenues were recently valued at more than \$250 billion and now account
12 for 21% of Amazon's total corporate revenue. Notably, Amazon's profit margins on TPS fees are
13 four times higher than its margins on its own retail sales.

14 **d. Minimum Margin Agreement**

15 102. Amazon employs a different anti-competitive agreement with its FPSs to insulate
16 itself from competition from other online marketplaces. FPSs sell their products to Amazon for
17 Amazon to sell, either as its own brand or otherwise, as a retailer through its online marketplace.
18 In the sales agreements, FPSs and amazon agree that the FPS guarantees Amazon a certain
19 minimum profit when Amazon sells the products its purchased from the FPS on Amazon's online
20 marketplace ("Minimum Margin Agreement" or "MMA").

21 103. If Amazon ultimately sells the product for a price that results in Amazon achieving
22 less than the agreed minimum profit, the FPS must compensate Amazon for the difference. This
23 agreement can at times result in the FPS incurring millions of dollars in "true up" costs to Amazon.
24 As a result, FPSs are incentivized to maintain higher prices on other online marketplaces to ensure

1 that Amazon does not drop its price based on lower prices elsewhere, thereby triggering the FPS's
 2 true-up requirements. Indeed, FPSs have raised their prices to competing online marketplaces to
 3 prompt the maintenance of higher prices on those marketplaces and even asked those marketplaces
 4 to raise prices to online consumers to avoid triggering Amazon's MMA provision. These
 5 agreements reduce other online marketplaces' ability to compete with Amazon by offering lower
 6 prices to consumers. Thus, the MMA results in reduced competition among online marketplaces
 7 and higher prices to consumers.

8 104. Amazon's PPP, FPP, and MMA insulate Amazon from competition as both an
 9 online marketplace and a retailer. These agreements also cause prices on Amazon's and other
 10 online marketplaces to be artificially inflated, enable Amazon to charge higher fees and
 11 commissions to TPSs, reduce profits to TPSs and FPSs, and suppress innovation and reduce
 12 investment in competitor online marketplaces.

13 **G. The Individual Defendants Made or Allowed Materially False and**
 14 **Misleading Statements to the Investing Public**

15 **a. Privacy Statements**

16 105. The Individual Defendants have known for years of the significant risks to the
 17 Company related to laws regarding privacy and disclosed such risks to investors. And at least as
 18 early as 2019, the Individual Defendants knew that Amazon was actively engaged in activities that
 19 were potentially illegal in nature.

20 106. For example, on January 31, 2020, Amazon filed an Annual Report for fiscal year
 21 2019 on Form 10-K with the SEC, reporting the Company's financial and operating results (the
 22 "2019 10-K").⁸ In the 2019 10-K, Amazon disclosed that it was using facial recognition software
 23

24 ⁸ The 2019 10-K was signed by Defendants Bezos, Olsavsky, Reynolds Alberg, Gorelick,

1 in its Rekognition database. The Company disclosed that it knew that there were ambiguities or
 2 uncertainties in how existing laws should apply to facial recognition technology. 2019 10-K at
 3 p. 12.

4 107. While Amazon's official position appears to cloud the possible illegality of its
 5 actions, multiple shareholders expressly commented in April and May of 2019 that these actions
 6 violated BIPA and potentially violated customers' and human rights.⁹ Specifically, shareholders
 7 promoting a proposal observed there is insufficient board oversight related to Rekognition:

8 [We] are concerned that the Amazon board is not equipped to adequately identify
 9 and assess the risks posed by Rekognition. The directors overall lack expertise that
 10 would give them the background or tools to assess the human rights impacts of
 11 machine learning, artificial intelligence, and the primary technologies behind a
 12 product like Rekognition. One possible exception is director Daniel Huttenlocher,
 13 who holds a Ph.D in Computer Science from MIT and hails an interest in "emerging
 14 technologies." The board also lacks any governance committee tasked with
 15 overseeing these risks. This is another reason why sales should be stopped until an
 16 independent group of experts has the ability to assess the risks and advise the board
 17 on whether or how it could proceed with sales of Rekognition to governments.¹⁰

18 108. Additionally, according to shareholders, Amazon's Board ignored shareholder
 19 concerns about the sale of biometrics and facial recognition software to law enforcement:

20 On June 15th, 2018, the lead proponent of this resolution was also the lead signatory
 21 on an initial letter by 19 financial services firms holding Amazon stock, including
 22 wealth management companies and registered investment advisors, raising strong
 23 objections to the introduction of the Company's facial recognition technology. Not
 24 only did Amazon not reply to the initial communication, there was no

20 Huttenlocher, McGrath, Rubinstein, Ryder, Stonesifer, and Weeks.

21 ⁹ See Rule 14a-103 Notice of Exempt Solicitation, Shareholder Rebuttal to Amazon.com, Inc., at
 22 p. 7 (Form PX14A6G) (May 1, 2019); *see also* Rule 14a-103 Notice of Exempt Solicitation,
 Shareholder Rebuttal to Amazon.com, Inc., at p. 6 (Form PX14A6G) (April 25, 2019).

23 ¹⁰ See Rule 14a-103 Notice of Exempt Solicitation, Shareholder Rebuttal to Amazon.com, Inc., at
 24 p. 9 (Form PX14A6G) (May 1, 2019); *see also* Rule 14a-103 Notice of Exempt Solicitation,
 Shareholder Rebuttal to Amazon.com, Inc., at p. 9 (Form PX14A6G) (April 25, 2019).

acknowledgment of receipt of the communication. Such initial issues raised specifically included “substantial risks for our Company negatively impacting our Company’s stock valuation and increasing financial risk for shareholders.” The June 15th, 2018 letter also stated: “...***we have seen no evidence of our Board of Directors conducting fiduciary oversight on how Rekognition may or may not, should or should not, be deployed.*** The recent experience and scrutiny of Facebook demonstrated the degree to which these new issues may undermine company value as the detrimental impacts on society become clear. While Rekognition may be intended to enhance some law enforcement activity, we are deeply concerned it may ultimately violate civil and human rights.”¹¹

109. The SEC added that “a number of other [Amazon] products – Alexa, Ring, and [Wi-Fi systems called] Eero – will face a spillover effect if Amazon’s status as a trusted company is breached...”¹²

110. In Amazon’s Annual Report for fiscal year 2020 filed on Form 10-K with the SEC on February 3, 2021 (“2020 10-K”), the Company again expressly disclosed its knowledge of laws and regulations covering “privacy, data protection, data security, network security, consumer protection” as well as a number of others. 2020 10-K at pp. 13, 59.¹³ These laws include biometric information regulation.

111. Similar disclosures appear in Amazon’s Annual Report for fiscal year 2021 filed on Form 10-K with the SEC on February 4, 2022 (“2021 10-K”). 2021 10-K at pp. 13-14, 59.¹⁴

¹¹ Rule 14a-103 Notice of Exempt Solicitation, Shareholder Rebuttal to Amazon.com, Inc., at p. 4 (Form PX14A6G) (May 1, 2019).

¹² See Amazon.com, Inc., SEC Division of Corporation Finance Letter, <https://www.sec.gov/divisions/corpfin/cf-noaction/14a-8/2019/johnharringtonetal032819-14a8.pdf>, at p. 6 (March 28, 2019).

¹³ The 2020 10-K is signed by Defendants Bezos, Olsavsky, Reynolds, Alexander, Brewer, Gorelick, Huttenlocher, McGrath, Nooyi, Rubinstein, Ryder, Stonesifer, and Weeks.

¹⁴ The 2021 10-K is signed by Defendants Jassy, Olsavsky, Reynolds, Bezos, Alexander, Cooper, Gorelick, Huttenlocher, McGrath, Nooyi, Rubinstein, Stonesifer, and Weeks.

1 112. The Company’s Annual Reports additionally fail to properly report on and obscure
 2 the magnitude of the Company’s exposure in the Consumer Class Actions and mislead investors
 3 as to the astronomical financial, operational, legal, regulatory and enforcement risks of violating
 4 BIPA and of the actions already pending against the Company.

5 113. Despite detailing numerous other specific legal matters, including specific cases
 6 involving patents, labor issues and Fair Credit Reporting (and the financial and operational risks
 7 attendant to those matters), Amazon’s 10Ks for 2019, 2020, and 2021 universally fail to apprise
 8 shareholders of the Consumer Class Actions, the mounting *per violation* statutory fines and the
 9 potentially devastating effects to the Company posed by its violations of BIPA and these pending
 10 class actions.

11 114. Moreover, the Board’s responses to shareholder concerns reveals a lack of
 12 safeguards, a failure to oversee legal compliance issues, conscious disregard of the law, and a
 13 conscious choice to turn a blind eye to Amazon’s conduct and the Board’s oversight
 14 responsibilities. When dismissing various shareholder concerns about facial recognition software,
 15 the Board stated: “In internal accuracy tests of Amazon Rekognition’s facial recognition features,
 16 [Amazon Web Services] evaluated photos from a publicly available dataset of 1 million face
 17 images and found zero false positive matches at a 99% confidence level...”¹⁵ The Board carelessly
 18 referenced this testing and use of “1 million face images” to promote and excuse its actions. Rather
 19 than vindicate the actions of the Company and provide value to the Company, that conduct led to
 20 a class action lawsuit for violations of BIPA and exposed the Company to significant liability. The
 21 aforementioned “publicly available dataset” with the biometric data of 1 million people contained
 22 the biometric data of Illinois residents without their consent. In 2020, Illinois residents brought a

23 _____
 24 ¹⁵ See Schedule 14A - Proxy Statement Pursuant to Section 14(a) of the Securities Exchange Act
 of 1934, filed on April 11, 2019, at pp. 20, 23.

1 class action against Amazon for precisely the misconduct the Board reviewed and celebrated. *See*
 2 *Stephen Vance et al. v. Amazon.com, Inc.*, No. 2:20-cv-01084 (W.D. Wash. July 14, 2020). These
 3 statements were approved by the Board at the time, which included Defendants Bezos, Alberg,
 4 Brewer, Gorelick, Huttenlocher, McGrath, Nooyi, Rubinstein, Ryder, Stonesifer, and Weeks.

5 115. The Company unsuccessfully attempted to suppress and omit from its 2019 proxy
 6 statement filed on Schedule 14a with the SEC on April 11, 2019 (“2019 Proxy Statement”) the
 7 shareholder concerns raised in two shareholder proposals referenced above. The SEC found
 8 Amazon’s “facial recognition software is a high visibility offering of an estimated \$23 billion
 9 revenue segment of the Company, Amazon Web Services.”¹⁶ AWS has since grown even more
 10 lucrative for the Company, with the Company reporting the segment had \$62 billion in revenue
 11 and \$18 billion in operating income in 2021.

12 116. As with Amazon’s 2019 Proxy Statement, the Board’s statements in its 2020 proxy
 13 statement filed on Schedule 14a with the SEC on April 16, 2020 (“2020 Proxy Statement”) dismiss
 14 shareholder concerns about the risks and privacy implications of Amazon’s facial recognition
 15 software. These statements were approved by the Board at the time, which included Defendants
 16 Bezos, Brewer, Gorelick, Huttenlocher, McGrath, Nooyi, Rubinstein, Ryder, Stonesifer, and
 17 Weeks.

18 117. Again, in Amazon’s 2022 proxy statement filed on Schedule 14a with the SEC on
 19 April 14, 2022 (“2022 Proxy Statement”), the current Board dismissed continued shareholder
 20 concerns about risks the Company faces from its violations of consumer privacy. The Board
 21 responded to shareholder concerns by attempting to reassure shareholders that: “Our Board has

22 ¹⁶ *See* Amazon.com, Inc., SEC Division of Corporation Finance Letter,
 23 [https://www.sec.gov/divisions/corpfin/cf-noaction/14a-8/2019/johnharringtonetal032819-](https://www.sec.gov/divisions/corpfin/cf-noaction/14a-8/2019/johnharringtonetal032819-14a8.pdf)
 24 [14a8.pdf](https://www.sec.gov/divisions/corpfin/cf-noaction/14a-8/2019/johnharringtonetal032819-14a8.pdf), at p. 6 (March 28, 2019).

1 reviewed Amazon Rekognition, along with other programs, as part of numerous AWS business
 2 reviews.” 2022 Proxy Statement at p. 86. The Board thus disregarded the shareholder concerns
 3 that Amazon is exposed to financial, reputational, regulatory, legal, and human capital
 4 management risk due to its sales of Rekognition.

5 118. Despite the Individual Defendants’ understanding that the Company’s actions
 6 violated BIPA and were illegal, the Individual Defendants permitted the Company to make false
 7 statements about its compliance with applicable laws and regulations. Moreover, no action was
 8 taken to prevent the Company from violating BIPA and similar statute statutes in other states and
 9 improperly exposing the Company to the significant legal exposure it now faces. Additionally,
 10 the Individual Defendants’ actions also violate Amazon’s internal corporate policies.

11 **b. Amazon Becomes the Subject of a**
 12 **Multitude of Class Action Lawsuits for Its**
 13 **Non-Compliance with BIPA and Other State Privacy**
 14 **Statutes, Which Have Significantly Harmed the Company**

15 119. In direct violation of Illinois’ BIPA statute, Amazon stored and continues to store
 16 its employees, its users,’ and its clients’ users’ biometric information without informing them of
 17 these practices and without securing the users’ written consent. Amazon also violates BIPA by
 18 failing to develop a written policy, available to the public, establishing a retention schedule and
 19 guidelines for users to permanently destroy biometric identifiers when the initial purpose for
 20 collection was satisfied.

21 120. These violations have exposed Amazon to substantial harm resulting to date in at
 22 least fourteen separate class action lawsuits for violation of BIPA, a sample of which are set forth
 23 below. In connection with these class action lawsuits, Amazon has already expended significant
 24 monetary resources and risks astronomical liability when the actions are resolved.

121. On June 26, 2019, a state consumer class action lawsuit was filed on behalf of

1 Amazon users in the Circuit Court of Cook County Illinois (the “Wilcosky Class Action”). The
2 Wilcosky Class Action, which includes a subclass for individuals who do not have Alexa accounts
3 (“bystanders”) and a subclass for minors, asserted causes of action under section 14/15(b) and (a)
4 of Chapter 740 of the Illinois Compiled Statutes. Specifically, the plaintiffs asserted that
5 Amazon’s Alexa and Echo devices capture, collect and retain voiceprints of any and all people
6 who speak near Alexa devices, regardless of age or affiliation with Amazon. And in an effort to
7 improve the voice and speech recognition technology, Amazon then retains every voice recording
8 created by the user and any individual who happens to be speaking near the Alexa device.
9 Plaintiffs there assert that Amazon never informed them, by written notice or otherwise, that
10 Amazon collected, stored, and used their biometric identifiers and information, or of the specific
11 purpose and length of term for which their biometric identifiers were being collected, stored, and
12 that Amazon does not publicly provide a retention schedule or guidelines for permanently
13 destroying their biometric data. Plaintiffs seek damages in the amount of \$1,000 for negligent and
14 \$5,000 for intentional violation of BIPA, per violation. Amazon removed the action to federal
15 district court for the Northern District of Illinois on July 26, 2019.

16 122. On October 8, 2019, a putative Class Action Complaint was filed alleging that AWS
17 unlawfully obtained and stored class members’ biometrics information and identifiers in violation
18 of BIPA (the “Hryniewicki Class Action”). The Hryniewicki Class Action asserted causes of
19 action under section 14/15(a)–(b) of Chapter 740 of the Illinois Compiled Statutes. Specifically,
20 the plaintiffs asserted that Amazon offers cloud storage for businesses that handle biometric
21 identifiers and biometric information and that BIPA regulates both the conduct of the entities that
22 capture biometric data and companies that store data and information derived from those biometric
23 identifiers. AWS failed to implement a publicly available biometric data retention and destruction
24 policy as required by Section 15(a) of BIPA. They also assert that Amazon never informed them,

1 by written notice or otherwise, of the specific purpose and length of term for which their biometric
2 identifiers were being collected, stored, and used and never obtained written consent for the same,
3 all in violation of Section 15(b) of BIPA. Plaintiffs seek damages in the amount of \$1,000 for
4 negligent and \$5,000 for intentional violation of BIPA, per violation. Amazon removed the action
5 to federal district court for the Northern District of Illinois on November 15, 2019.

6 123. On November 15, 2019, a state consumer class action lawsuit was filed in the
7 Circuit Court of Cook County, Chancery Division on behalf of plaintiffs whose biometric data is
8 stored by Amazon (the “Ragsdale Class Action”). The Ragsdale Class Action asserted causes of
9 action under section 14/15(a) and (b) of Chapter 740 of the Illinois Compiled Statutes.
10 Specifically, the plaintiffs asserted that as a leading cloud provider in the United States, AWS
11 offers cloud storage services for businesses that handle biometric identifiers and biometric
12 information, including employers that collect biometric information on their employees. Plaintiffs
13 assert that despite possessing plaintiffs’ biometric data, AWS failed to implement a publicly
14 available biometric data retention and destruction policy as required by Section 15(a) of BIPA.
15 They also assert that Amazon never informed them, by written notice or otherwise, of the specific
16 purpose and length of term for which their biometric identifiers were being collected, stored, and
17 used and never obtained written consent for the same, in violation of Section 15(b) of BIPA. On
18 January 24, 2020, AWS removed the action to the federal District Court for the Northern District
19 of Illinois, expressly pleading for purposes of removal that the amount in controversy exceeds the
20 jurisdictional minimum of \$5,000,000 and calculating damages as high as \$10,000,000.

21 124. On October 16, 2020, a federal consumer class action lawsuit was filed against
22 Amazon Web Services Inc. and Pindrop Security Inc. on behalf of Illinois citizens who used
23 Amazon Connect and Pindrop’s voice authentication and/or fraud detection technology during the
24 specified class period (the “McGovern Class Action”). The McGovern Class Action asserted

1 causes of action under section 14/15(a)–(e) of Chapter 740 of the Illinois Compiled Statutes.
2 Specifically, the plaintiffs asserted that Amazon collected, captured, obtained, possessed and
3 disseminated the biometric voice identifiers of plaintiffs for profit and without their consent in
4 violation of BIPA. Plaintiffs further assert that Amazon failed to use reasonable standards of care
5 in storing and protecting Plaintiffs’ biometric information and biometric identifiers in violation of
6 BIPA. Plaintiffs seek damages in the amount of \$1,000 for negligent and \$5,000 for intentional
7 violation of BIPA, per violation.

8 125. On September 28, 2020, a state employee class action lawsuit was filed on behalf
9 of Amazon employees in the Circuit Court of Cook County, Illinois County Department, Chancery
10 Division (the "Jerinic Class Action"). The Jerinic Class Action asserted causes of action against
11 Amazon.com Inc. and Amazon.com LLC under section 14/15(a), (b) and (d) of Chapter 740 of the
12 Illinois Compiled Statutes. Specifically, the plaintiffs asserted that, as employees, plaintiffs were
13 required to have facial geometry scanned by a facial recognition camera and to have their
14 temperatures taken before entering work and that this information is scanned, tracked, uploaded
15 and stored in violation of BIPA. Plaintiff employees seek damages in the amount of \$1,000 for
16 negligent and \$5,000 for intentional violation of BIPA, per violation. Amazon removed the action
17 to federal district court for the Northern District of Illinois on October 30, 2020.

18 126. On June 11, 2021, Plaintiffs Angela Hogan (“Hogan”) and B.H., a minor, brought
19 a putative class action against Amazon.com, Inc. (the “Hogan Class Action”) in the Circuit County
20 of Cook Illinois, which action was removed to the U.S. District Court for the Northern District of
21 Illinois. A First Amended Complaint was filed in federal court on July 21, 2021. The Hogan Class
22 Action asserted claims for violation of Section 15 (a)–(c) of BIPA and for unjust enrichment.
23 Specifically, the plaintiffs asserted that the biometric identifiers—scans of facial geometry—of
24 untold millions of people were obtained, stored, and analyzed by Amazon’s Rekognition from the

billions of images uploaded to Amazon Photos daily in violation of BIPA. Plaintiffs seek damages in the amount of \$1,000 for negligent and \$5,000 for intentional violation of BIPA, per violation. On March 30, 2022, the court denied Amazon's Motion to Dismiss as to the BIPA claims.

127. These and numerous additional class action lawsuits known to the Board for many years have placed the Company and the Board on notice of mounting and potential catastrophic harm to the Company and its shareholders. Notably, BIPA provides that an aggrieved party can obtain damages on a “*per violation*”—not a “per person”—basis. Thus, the potential damages recoverable against Amazon are astronomical to the point that Company could be put out of business if the violations are not immediately addressed, stopped, and remedied.

128. On top of these Consumer Class Actions, Amazon has faced over 75,000 individual arbitration demands for privacy violations by devices deploying Alexa, forcing Amazon to foot the bill for tens of millions of dollars in case initiation fees due under its own arbitration policy, not to mention Amazon’s own attorneys’ fees as well as damages and attorneys’ fees in any arbitration awards.¹⁷

129. The expense and burden of these cases, as well as additional cases, on the Company is substantial. In addition to direct harms from liability suits, the Individual Defendants’ conduct also jeopardizes and harms one of Amazon’s most important (and fragile) assets: consumer trust. Reputational damage is particularly devastating for technology companies like Amazon.

c. Anticompetitive Business Practices Statements

130. On February 1, 2019, Amazon filed an Annual Report on Form 10-K with the SEC,

¹⁷ See Michael Corkery, *Amazon Ends Use of Arbitration for Customer Disputes*, N.Y. Times, (July 22, 2021), <https://www.nytimes.com/2021/07/22/business/amazon-arbitration-customer-disputes.html> (reporting that each arbitration demand cost Amazon about \$2,900 at the outset – which would equal \$217 million for 75,000 arbitration demands).

1 reporting the Company's financial and operating results for the year ended December 31, 2018
2 (the "2018 10-K").¹⁸ In the 2018 10-K, Amazon failed to disclose that it was engaged in
3 anticompetitive conduct with respect to its private-label business. Rather, the 2018 10-K contained
4 only a generic, highly general risk disclaimer to the effect that Amazon was "subject to general
5 business regulations and laws, as well as regulations and laws specifically governing the Internet[]
6 [and] e-commerce" and that these laws covered competition, among other things. Amazon merely
7 advised its investors that "[e]xisting and future laws and regulations may impede our growth" and
8 failed to disclose the specific and known risks arising from the Company's anticompetitive
9 business practices.

10 131. In the 2018 10-K, Amazon reported net sales of \$232.89 billion for the year.
11 Amazon failed to disclose, however, that these sales figures were unsustainable to the extent that
12 they were derived from impermissible anticompetitive conduct.

13 132. Appended to the 2018 10-K as exhibits were signed Certifications pursuant to
14 Sarbanes-Oxley Act of 2002 ("SOX") by Defendants Bezos and Olsavsky, attesting that "the [2018
15 10-K] fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange
16 Act of 1934" and that "[t]he information contained in the [2018 10-K] fairly presents, in all
17 material respects, the financial condition and results of operations of the Company."

18 133. On April 25, 2019, Amazon hosted an earnings call with investors and analysts to
19 discuss the Company's Q1 2019 results (the "Q1 2019 Earnings Call"). When asked to comment
20 on Amazon's efforts to sustain its growth rate in the third-party marketplace business, Defendant
21 Olsavsky responded, in relevant part:

22
23 ¹⁸ The 2018 10-K was signed by Defendants Bezos, Olsavsky, Reynolds, Alberg, Gorelick,
24 Huttenlocher, McGrath, Rubinstein, Ryder, Stonesifer, and Weeks.

1 So again, let me reiterate our approach. So main goal here is that it will allow
2 customers to have the broadest selection, the best available price and also the most
3 convenient options on how they receive the item. If we're delivering on those three
4 elements, we're indifferent as to whether it's sold by us or a third-party. We actively
recruit sellers to sell on our platform, it's because it adds selection. It adds - if it's
in the FBA program, it adds Prime eligible selection.

5 We spend billions of dollars a year, as Jeff said, on infrastructure, tools and
6 services, not only to allow sellers to sell, but to help themselves more successfully.
7 So we have a vested interest in the success of our sellers. Any growth acceleration
or deceleration that you see can be very much tied to the total sales of the customer
- that we have the customers in any country.

8 So you'll still see the percentage of third-party units increased and has been steadily
9 over the last few years. So again, the sellers are as important to us as anything for
servicing the customers' need for price selection and convenience.

10
11 134. On or around June 3, 2019, the House Judiciary Committee initiated a bipartisan
12 investigation into the state of competition online. The Subcommittee's investigation examined the
13 business practices and market dominance of Facebook, Google, Apple, and Amazon.

14 135. In the course of the Subcommittee's investigation, the Subcommittee held several
15 oversight hearings in which various officers of the above referenced companies, including their
16 respective CEOs, offered witness testimony on topics such as the effect of market power on the
17 press, innovation, and privacy, and the market dominance of the firms under investigation. After
18 each of the hearings, members of the Subcommittee submitted questions for the record to the
19 witnesses.

20 136. On July 16, 2019, Defendant Sutton testified before the House Judiciary Committee
21 alongside executives from Google, Facebook, and Apple (the "July 16, 2019 Hearing"). When
22 asked by Representative Pramila Jayapal whether Amazon "track[s] [the data] and create[s]
23 products that directly compete with those most popular brands that are out there," Defendant
24 Sutton responded, in relevant part, that "data on popularity of products like much retail data is

1 actually public data,” but “[Amazon] do[es] not use any of that specific seller data in creating our
2 own private brand products.”

3 137. At the same hearing, when asked by Subcommittee Chairman David N. Cicilline
4 whether Amazon’s algorithm for collecting data is used to support the sale of Amazon branded
5 products, Defendant Sutton responded, in relevant part, “[o]ur algorithms, such as the buy box, is
6 [sic] aimed to predict what customers want to buy [. . .] [a]nd we apply the same criteria whether
7 you’re a third-party seller or Amazon to that because we want customers to make the right purchase
8 regardless of whether it’s a seller or Amazon.”

9 138. As the Subcommittee Investigation proceeded, various reputable media outlets
10 published reports that seemingly contradicted the testimony offered by Amazon’s witnesses at the
11 Subcommittee hearings. For example, on July 18, 2019, the investigative news organization
12 *Capitol Forum* published an article entitled, “Amazon: Former Employee Challenges Executive’s
13 Denial About Company’s Use of Independent Sellers’ Data.”¹⁹ The former Amazon employee
14 stated that Amazon “routinely tracked the popularity of independent sellers’ products sold through
15 its website,” and that “[the former employee] used to pull sellers’ data to look at what the best
16 products were [. . . .]” Accordingly, *Capitol Forum*’s reporting appeared to directly contradict
17 Defendant Sutton’s testimony.

18 139. On July 23, 2019, in response to the publication of the *Capitol Forum* article and
19 similar reporting by other media outlets, Chairman Cicilline sent Amazon a letter requesting that
20 the Company supplement Defendant Sutton’s responses to questions at the July 16, 2019 Hearing
21 because “[i]n several instances, Mr. Sutton responded to questions from [the Subcommittee] by
22

23 ¹⁹ *Amazon: Former Employee Challenges Executive’s Denial About Company’s Use of*
24 *Independent Sellers’ Data*, The Capitol Forum (July 18, 2019).

1 offering other ancillary information or partial and selective responses.” Moreover, Chairman
 2 Cicilline’s letter stated that “[i]n one instance, [Defendant Sutton’s] answer has been contested by
 3 a former Amazon employee, raising questions about the veracity of his responses under oath.”

4 140. On July 25, 2019, Amazon hosted an earnings call with investors and analysts to
 5 discuss the Company’s Q2 2019 results (the “Q2 2019 Earnings Call”). When questioned whether
 6 there would be any change in Amazon’s business to focus “more towards third-party from first-
 7 party,” Defendant Olsavsky stated, in relevant part:

8 On your comment, I assume you meant vendors not merchants, but on the move
 9 from 1P to 3P, but no there shouldn't be -- I can't highlight anything related shifting
 10 in channel there, but I would say that we remain in different on whether -- ***we're***
 11 ***focused on price convenience and selection for our customers. And whether***
product is a retail offering or third-party offering is not that important to us. As
long as it's in stock, as long as it's priced competitively.

12 So, as you know our 3P selection has -- our 3P percent of units has been increasing
 13 over time and increased again in this quarter to 54% of units. ***We continue to invest***
 14 ***very heavily in our systems both for retail vendors and also for third-party***
 15 ***merchants invest billions of dollars a year on behalf of then making Amazon a***
better place for customers to buy and increasingly not only vendor sales, but also
third-party merchant sales.

16 141. On July 26, 2019, Defendant Zapolsky sent a letter²⁰ in response to Chairman
 17 Cicilline’s July 23, 2019 letter, which stated, in relevant part:

18 [. . .] while we prohibit in our private label strategy the use of data related
 19 specifically to individual sellers, like other retailers we use aggregated store data
 20 (e.g., total sales) and customer shopping behavior (e.g., search volume) to identify
 21 categories and products with high customer demand over a given time period. Use
 22 of aggregated store data about customers’ shopping behavior is far from novel
 among retailers with a private label business. Many retailers, including large
 retailers with extensive private brand offerings and retailers with marketplaces,

23 ²⁰ Zapolsky, David. Letter to David N. Cicilline. July 26, 2019. Retrieved from
 24 [https://judiciary.house.gov/sites/democrats.judiciary.house.gov/files/documents/07.26.19%20-](https://judiciary.house.gov/sites/democrats.judiciary.house.gov/files/documents/07.26.19%20-%20amazon%20response.pdf)
[%20amazon%20response.pdf](https://judiciary.house.gov/sites/democrats.judiciary.house.gov/files/documents/07.26.19%20-%20amazon%20response.pdf).

1 know the sales volume for products in their stores.[] Customers' shopping behavior
 2 in our store is just one of many inputs to Amazon's private label strategy. We also
 3 use other factors employed across the retail industry, such as fashion and shopping
 4 trends highlighted in the press and on social media, suggestions from our
 5 manufacturers for new or complementary product lines, and gaps in our product
 6 assortment relative to our competitors.

7 * * *

8 [W]e use aggregated store data on total sales and search volume for categories and
 9 products (unless the product is only offered by a single seller, in which case we do
 10 not use that data).

11 * * *

12 [T]he featured offer algorithm does not favor any particular type of offer, but rather
 13 seeks to determine which offer to highlight based on a prediction of which offer
 14 customers would choose if they were to compare all offers in detail. If our
 15 prediction is that the customer would likely prefer a product from a Marketplace
 16 seller over the offer from Amazon, then we feature the product from the
 17 Marketplace seller. We constantly refine our predictions to reflect customer
 18 preferences, and look to factors beyond price, including fulfillment speed, delivery
 19 speed, Prime eligibility, and seller performance.² In the rare instances that our
 20 algorithmic weighting of these factors results in a tie in our prediction between an
 21 offer from Amazon retail and a product in Fulfillment by Amazon, we again
 22 endeavor to predict accurately customers' demonstrated preferences and feature the
 23 Amazon retail offer because our customers show a preference for products sold
 24 directly by Amazon.

Moreover, we make all offers easily available for all customers to shop. Customers
 may compare the closest competing offers and add them directly to their shopping
 cart via the "Other Sellers on Amazon" option [. . .], which is displayed on the
 product detail page directly below the featured offer. Customers may also browse
 all offers via the offer listing page, accessible via a hyperlink below the featured
 offer. There, customers may compare offers, sellers, shipping speeds, and prices.
 Our data also demonstrate that customers who compare the available offers
 overwhelmingly ultimately select the featured offer, further confirming that our
 criteria for selecting the featured offer accurately predict customer preference.

142. On October 24, 2019, Amazon hosted an earnings call with investors and analysts
 to discuss the Company's Q3 2019 results (the "Q3 2019 Earnings Call"). When asked to comment

1 on the opportunities and competitiveness for third-party sellers, Defendant Olsavsky responded,
 2 in relevant part, “[o]n third party I would say we only succeed if the third party sellers succeeds.
 3 So we’re heavily invested in them as they are in us. So we are constantly investing on their behalf,
 4 adding new products and features and you know we are cognizant of their economics as well and
 5 we want a business that works for both of us and we set our fees accordingly.”

6 143. On January 31, 2020, Amazon filed the 2019 10-K. In the 2019 10-K, Amazon
 7 failed to disclose that it was engaged in anticompetitive conduct with respect to its private-label
 8 business. Rather, the 2019 10-K contained only a generic, highly general risk disclaimer to the
 9 effect that Amazon was “subject to general business regulations and laws, as well as regulations
 10 and laws specifically governing the Internet[] [and] e-commerce” and that these laws covered
 11 competition, among other things. Accordingly, Amazon failed to disclose the specific and known
 12 risks arising from the Company’s anticompetitive business practices.

13 144. In the 2019 10-K, Amazon reported net sales of \$280.52 billion for the year.
 14 Amazon failed to disclose, however, that these sales figures were unsustainable to the extent that
 15 they were derived from impermissible anticompetitive conduct.

16 145. Appended to the 2019 10-K as exhibits were signed Certifications pursuant to SOX
 17 by Defendants Bezos and Olsavsky, attesting that “the [2019 10-K] fully complies with the
 18 requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934” and that “[t]he
 19 information contained in the [2019 10-K] fairly presents, in all material respects, the financial
 20 condition and results of operations of the Company.”

21 146. On May 1, 2020, members of the Subcommittee sent Defendant Bezos a letter²¹ in

22 ²¹ Nadler, Jerrold. Letter to Jeff Bezos. May 1, 2020. Retrieved from
 23 [https://judiciary.house.gov/uploadedfiles/2020-05-](https://judiciary.house.gov/uploadedfiles/2020-05-01_letter_to_amazon_ceo_bezos.pdf?utm_campaign=2719-519)
 24 [01_letter_to_amazon_ceo_bezos.pdf?utm_campaign=2719-519](https://judiciary.house.gov/uploadedfiles/2020-05-01_letter_to_amazon_ceo_bezos.pdf?utm_campaign=2719-519).

1 response to an April 23, 2020 *Wall Street Journal* article which alleged that Amazon employees
 2 used sensitive business information from TPSs on its platform to develop competing products.
 3 The letter stated that “[i]f these allegations are true, then Amazon exploited its role as the largest
 4 online marketplace in the U.S. to appropriate the sensitive commercial data of individual
 5 marketplace sellers and then used that data to compete directly with those sellers,” and encouraged
 6 Defendant Bezos to testify before the Subcommittee.

7 147. On May 15, 2020, Amazon sent a letter in response to the Subcommittee’s
 8 May 1, 2020 letter to Defendant Bezos, stating, in relevant part:

9 Because Amazon is privileged to have third-party sellers who now account for the
 10 great majority of sales of physical goods in Amazon’s store, we determined years
 11 ago to take additional steps to give sellers comfort regarding their individual data.
 12 It was purely for that reason that we went beyond any legal requirement—and
 13 beyond the protections in place at any other store we are aware of—to begin to
 14 implement internal policies to restrict the use of non-public data specific to one
 15 particular selling partner to compete directly with sellers. We did this because we
 16 thought it was the right thing to do for our selling partners, who are also critical
 17 customers of Amazon—we wanted to go the extra mile to protect the trust of third
 18 parties selling in our stores. This policy, known internally at Amazon as our Seller
 Data Protection Policy, prohibits the use of nonpublic, seller-specific data to
 compete against our selling partners. As with any other employee policy at
 Amazon, we take the policy seriously, we train extensively on it, leadership
 reinforces that training, we audit for compliance, we examine allegations of
 breaches of the policy, and we iterate and improve based on what we learn. We do
 all of this solely in order to promote and enhance third party sellers’ trust in
 Amazon, trust that we know is essential to our business.

19 * * *

20 In particular, on the issue of our use of data, the Committee asked in July 2019
 21 whether Amazon uses “any of the data (including aggregate data on specific
 22 product categories) it collects on Marketplace transactions to inform its private
 23 label strategy?” We responded clearly: “Yes, while we prohibit in our private label
 24 strategy the use of data related specifically to individual sellers, like other retailers
 we use aggregated store data (e.g., total sales) and customer shopping behavior
 (e.g., search volume) to identify categories and products with high customer
 demand over a given time period.” [] In response to the Committee’s written

1 questions for the record last fall, we elaborated that the policy prohibits “Amazon’s
 2 private brand products business from using individual sellers’ data to decide which
 3 products to launch” and that the business is prohibited from using such data “to
 4 make sourcing, pricing, or inventory decisions for its private brand products.” []
 5 Our testimony at the Subcommittee’s July 16, 2019 hearing about our company
 6 policy reaffirmed our policy and is consistent with the written record. As even the
 7 former employee quoted in the Wall Street Journal made clear, our seller data
 8 protection policy is well known to our employees, and using individual seller data
 9 to aid the private label business would be a clear violation of that policy.

10 148. On July 29, 2020, Defendant Bezos testified before the Subcommittee.²² During
 11 the hearing, when asked by Representative Jayapal whether Amazon “ever access[ed] and use[d]
 12 third-party seller data when making business decisions,” Defendant Bezos responded, in relevant
 13 part, “I can’t answer that question yes or no. What I can tell you is we have a policy against using
 14 seller-specific data to aid our private label business, but I can’t guarantee you that that policy has
 15 never been violated.”

16 149. On September 4, 2020, Amazon submitted responses to the Subcommittee’s post-
 17 July 29, 2020 hearing requests.²³ In response to a request from Chairman Cicilline regarding
 18 Amazon employees’ access to TPS data, Amazon stated:

19 Amazon first learned about the alleged violations of Amazon’s voluntarily adopted
 20 Seller Data Protection Policy recently reported in *The Wall Street Journal* from *The*
 21 *Wall Street Journal*. The *Journal*’s reporting conflates product-pricing and top-
 22 seller data—both of which are publicly displayed in Amazon’s store—with the

23 ²² *Online Platforms and Market Power, Part 6: Examining the Dominance of Amazon, Apple, Facebook, and Google: Hearing Before the Subcommittee on Antitrust, Com. & Admin. L. of the H. Comm. on the Judiciary*, 116th Cong. 11-12, 101-3, 109-11, 113-18, 122-25, 130-33, 138-40, 145-46, 148, 153, 160-61, 164-66 (2020) (testimony of Jeffrey P. Bezos, CEO, Amazon.com, Inc.), <https://www.govinfo.gov/content/pkg/CHRG-116hhrg41317/pdf/CHRG-116hhrg41317.pdf>.

24 ²³ Questions for the Record for Amazon following the July 29, 2020, Hearing of the Subcommittee on Antitrust, Commercial, and Administrative Law, Committee on the Judiciary. September 4, 2020. <https://docs.house.gov/meetings/JU/JU05/20200729/110883/HHRG-116-JU05-20200729-QFR052.pdf>

individual seller data protected by Amazon's Seller Data Protection Policy. Amazon encourages employees to report any indication of potential lack of compliance with all internal policies, including the Seller Data Protection Policy, and Amazon responds appropriately to any such reports.

150. On October 4, 2020, Amazon sent a letter to the Subcommittee "to follow up to questions related to Amazon's Seller Data Protection Policy and related internal investigation raised during the Antitrust Subcommittee's recent hearing and in response to the October 3 email from Subcommittee staff."²⁴ The October 4, 2020 letter stated, in relevant part:

Amazon's investigation into the *Wall Street Journal's* allegations that Amazon employees violated the Seller Data Protection Policy is complete, and we are satisfied that the results confirm, as with all our policies, the seriousness with which we take this policy.

* * *

There is some confusion on Amazon's use of its own store data. Amazon's data about the costs of selling in its own stores—data like the cost to shelve, handle, and promote a product that all stores have and use to manage their business—does not become secret when it relates to a product sold by a third party in Amazon's store. Amazon stills needs to process and use this information, like all retailers, to operate its store and better serve customers. In determining whether to launch a new product, including its own private-label products, Amazon takes into account factors such as the costs to shelve, handle, and promote that product. And, like any other retailer, it combines such store data with its own procurement and other costs to determine whether it believes sales of that product will be profitable. But that store data is the same irrespective of the seller. And, we do not receive information on costs incurred to procure or manufacture a product, or related profit data, from third-party sellers.

As an additional measure to protect the trust of our selling partners, Amazon's policy does not permit private brands employees to look at the number of sales made by a single seller. The policy does generally permit employees to look at aggregate sales data for products sold in the Amazon store—that is, data on the number of sales of a product in the Amazon store where there is more than one

²⁴ Huseman, Brian. Letter to Chairmen Nadler and Cicilline. October 4, 2020. Retrieved from https://judiciary.house.gov/uploadedfiles/letter_from_brian_huseman_to_committee__oct_04_2020.pdf.

1 seller of that product. It is confusion on this point that seems to have animated this
2 year's *Wall Street Journal* article,[] which appears to use the generic word "data"
3 to mean both single-seller or aggregate data, resulting in the inaccurate implication
4 that the use of any sort of Amazon sales data (even aggregate data) would violate
5 the policy. Indeed, Amazon's records of past data queries related to the two products
6 cited in the Wall Street Journal report show that a single former employee pulled
and analyzed only aggregate data for both products in compliance with the Seller
Data Protection Policy. And of course there is nothing novel about a retailer looking
at its own store's aggregate sales data for a product in this way; retailers have used
aggregate sales data for products sold in their stores for decades.

7 151. On February 3, 2021, Amazon filed the 2020 10-K. In the 2020 10-K, Amazon
8 failed to disclose that it was engaged in anticompetitive conduct with respect to its private-label
9 business. Rather, the 2020 10-K contained only a generic, highly general risk disclaimer to the
10 effect that Amazon was "subject to general business regulations and laws, as well as regulations
11 and laws specifically governing the Internet[] [and] e-commerce" and that these laws covered
12 competition, among other things. Accordingly, Amazon failed to disclose the specific and known
13 risks arising from the Company's anticompetitive business practices.

14 152. In the 2020 10-K, Amazon reported net sales of \$386.06 billion for the year.
15 Amazon failed to disclose, however, that these sales figures were unsustainable to the extent that
16 they were derived from impermissible anticompetitive conduct.

17 153. Appended to the 2020 10-K as exhibits were signed Certifications pursuant to SOX
18 by Defendants Bezos and Olsavsky, attesting that "the [2020 10-K] fully complies with the
19 requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934" and that "[t]he
20 information contained in the [2020 10-K] fairly presents, in all material respects, the financial
21 condition and results of operations of the Company."

22 154. On October 18, 2021, members of the Subcommittee sent Amazon a letter in
23 response to "recent, credible reporting that directly contradicts the sworn testimony and
24 representations of Amazon's top executives—including former CEO Jeffrey Bezos—to the

Committee about their company's business practices during our investigation last Congress."²⁵
 The letter stated that the Subcommittee was "providing [the Company] with a final opportunity to provide exculpatory evidence to corroborate the prior testimony and statements on behalf of Amazon to the Committee," and encouraged Amazon to "provide the Committee with sworn, truthful, and accurate responses to this request as we consider whether a referral of this matter to the Department of Justice for criminal investigation is appropriate."

155. On November 1, 2021, Amazon sent a letter²⁶ in response to the Subcommittee's October 18, 2021 letter, stating that Amazon "ha[d] cooperated fully with the Committee's inquiries and engaged in good faith throughout this process, and the resulting record fully supports the transparency, candor, accuracy, and truthfulness of all of our statements, including on the topics raised in your letter," and that the Company "ha[d] in no way lied to or misled the Committee, and any allegation to the contrary is false and unsupported." Further, Amazon's response letter stated, in relevant part:

[Amazon's] statements to the Committee regarding this policy have been truthful and consistent throughout. At the July 16, 2019, hearing our witness stated that Amazon does not use individual seller data to compete with third party sellers, clarifying specifically that Amazon does not "use any of that specific seller data in creating our own private brand products" and that Amazon does "not use their individual data when we're making decisions to launch private brands."[] We confirmed that policy and further elaborated upon our witness's live testimony in our July 26, 2019, follow-up letter to the Committee, explaining that, "While we prohibit in our private label strategy the use of data related specifically to individual sellers, like other retailers we use aggregated store data (e.g., total sales) and

²⁵ Nadler, Jerrold. Letter to Andy Jassy. October 18, 2021. https://judiciary.house.gov/uploadedfiles/letter_-_amazon_misrepresentations_-_10.18.21.pdf.

²⁶ Huseman, Brian. Letter to Chair Nadler, Chair Cicilline, Ranking Member Buck, Vice Chair Jayapal, and Representative Gaetz. November 1, 2021. https://judiciary.house.gov/uploadedfiles/letter_from_brian_huseman_to_committee__nov_01_2021.pdf.

customer shopping behavior (e.g., search volume) to identify categories and products with high customer demand over a given time period.”[] And in our October 11, 2019, response to the Committee’s subsequent written questions for the record, we again confirmed that “Amazon prohibits Amazon’s private brand products business from using non-public individual sellers’ data to decide which products to launch, and Amazon prohibits the use of non-public individual sellers’ data to make sourcing, pricing, or inventory decisions for its private brand products.”[] In response to Vice Chair Jayapal’s question during the July 29, 2020, hearing referencing our witness’s testimony of a year prior, Mr. Bezos testified, “What I can tell you is we have a policy against using seller-specific data to aid our private label business, but I can’t guarantee you that that policy has never been violated.”[] He also again clarified that using “aggregate data is allowed under our policies,”[] that “aggregate data” refers to more than one seller, and that Amazon’s policy permits the use of aggregate data when there are many or only two or three sellers of a product.[] In written responses to questions for the record after that hearing, Amazon again explained the differences between aggregate versus seller-specific data in the Seller Data Protection Policy, elaborated on our entirely consistent prior testimony, and answered questions about Amazon’s enforcement and auditing of its Seller Data Protection Policy.

156. On February 3, 2022, Amazon hosted an earnings call with investors and analysts to discuss the Company’s Q4 2021 results (the “Q4 2021 Earnings Call”). When asked to discuss why TPS services experienced less growth, Defendant Olsavsky responded, in relevant part:

On 3P, I think what you’re seeing is a decreasing growth rate, much like the rest of the business, as I mentioned earlier, we’re dealing with the very high growth period from Q3 of 2020 through Q1 of 2021. But on a two-year basis, you’re still seeing 31% compounded annual growth in the 3P seller services revenue. Granted that was in the -- it was 34% last quarter, but it’s maintaining. I think the bigger point is that sellers are definitely big winners in Q4. The percentage of units up to 56% was a record for 3P. *We continue to invest a lot to make sellers -- help sellers be successful on our site. They’re a big consumer of advertising as well because they use it to build their brands and add -- enable customers to see their selection and make purchases. So we’re very happy with the third-party seller services businesses, and again, looking for ways to help sellers be successful.*

157. On February 4, 2022, Amazon filed the 2021 10-K. In the 2021 10-K, Amazon failed to disclose that it was engaged in anticompetitive conduct with respect to its private-label business. Rather, the report contained only a generic, highly general risk disclaimer to the effect

1 that Amazon was “subject to general business regulations and laws, as well as regulations and laws
2 specifically governing the Internet[] [and] e-commerce” and that these laws covered competition,
3 among other things. Accordingly, Amazon failed to disclose the specific and known risks arising
4 from the Company’s anticompetitive business practices.

5 158. In the 2021 10-K, Amazon reported net sales of \$469.82 billion for the year.
6 Amazon failed to disclose, however, that these sales figures were unsustainable to the extent that
7 they were derived from impermissible anticompetitive conduct.

8 159. Appended to the 2021 10-K as exhibits were signed Certifications pursuant to SOX
9 by Defendants Jassy and Olsavsky, attesting that “the [2021 10-K] fully complies with the
10 requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934” and that “[t]he
11 information contained in the [2021 10-K] fairly presents, in all material respects, the financial
12 condition and results of operations of the Company.”

13 160. The statements referenced in this section were materially false and misleading
14 because the Individual Defendants made false and/or misleading statements and/or failed to
15 disclose that: (i) Amazon engaged in anticompetitive conduct in its private-label business
16 practices, including giving Amazon products preference over those of its competitors and using
17 third-party sellers’ non-public data to compete with them; (ii) the foregoing exposed Amazon to a
18 heightened risk of regulatory scrutiny and/or enforcement actions; (iii) Amazon’s revenues derived
19 from its private-label business were in part the product of impermissible conduct and thus
20 unsustainable; and (iv) as a result, the Individual Defendants’ public statements throughout the
21 relevant period were materially false and/or misleading.

22 **d. The Lies to Congress Regarding Amazon’s**
23 **Anticompetitive Practices Are Exposed**

24 161. On March 9, 2022, media outlets reported that members of the House Judiciary

1 Committee had requested that the DOJ open a criminal investigation into Amazon and certain of
2 its executives for allegedly lying to Congress about its business practices.

3 162. As *Bloomberg* reported:

4 “Amazon repeatedly endeavored to thwart the Committee’s efforts to uncover the
5 truth about Amazon’s business practices,” a bipartisan group of lawmakers from
6 the House Judiciary Committee wrote Wednesday in a letter to Attorney General
Merrick Garland. “For this, it must be held accountable.”

7 At issue is testimony given by Amazon during a 16-month congressional
8 investigation into anticompetitive practices by tech giants. Amazon representatives,
9 including then Chief Executive Officer Jeff Bezos, told Congress the company
10 forbids employees from using data from third-party sellers to compete against them
or craft rival products. But a series of media accounts suggested that Amazon
employees have done just that, or at least found workarounds that render the policy
useless.

11 This isn’t the first time committee members have raised concerns about Amazon’s
12 testimony. Last October, the lawmakers asked Chief Executive Officer Andy Jassy
13 to “correct the record” as they considered referring the matter to the Justice
Department for criminal investigation.

14 Since then, the company has continued to deny it missuses seller data and refused
15 to turn over business records, the lawmakers wrote. “As a result, we have no choice
but to refer this matter to the Department of Justice,” they wrote.

16 163. In response, an Amazon spokesperson asserted that there was “no factual basis” for
17 the House Judiciary Committee’s allegations.

18 164. Then, on April 6, 2022, *The Wall Street Journal* published an article entitled “SEC
19 Is Investigating How Amazon Disclosed Business Practices.” The article reported, in relevant
20 part:

21 Federal securities regulators are investigating how Amazon.com Inc. has disclosed
22 some details of its business practices, including how it uses third-party-seller data
for its private-label business, according to people familiar with the matter.

23 The Securities and Exchange Commission is probing how the technology giant—
24 the largest U.S. e-commerce retailer and cloud-computing company—handled

disclosures of its employees' use of data from sellers on its e-commerce platform, the people said. The SEC's enforcement division has asked for emails and communications from several senior Amazon executives, according to one of the people.

* * *

As a result of its 16-month investigation into technology companies including Amazon beginning in 2019, the [House Judiciary Committee] proposed a series of bills aimed at reining in tech giants. One of the measures targets Amazon's private-label business, seeking to make it unlawful for the company to give its own products preference over those of competitors, or to use sellers' nonpublic data to compete with them.

* * *

The SEC's probe has been under way for more than a year, one of the people familiar with the matter said

165. On this news, Amazon's stock price fell \$105.98 per share, or 3.2%, to close at \$3,175.12 per share on April 6, 2022.

166. As a result of the Individual Defendants' wrongful acts and omissions, and the precipitous decline in the market value of Amazon's stock, the Company has suffered significant losses and damages.

V. THE INDIVIDUAL DEFENDANTS' DUTIES

A. Fiduciary Duties

167. By reason of their positions as officers and/or directors of Amazon and because of their responsibility to control the business and corporate affairs of the Company, the Individual Defendants owed, and owe, the Company and its stockholders the fiduciary obligations of good faith, loyalty, due care, and candor and were, and are, required to use their utmost ability to control and manage the Company in a just, honest, fair, and equitable manner. Each Individual Defendant owed, and owes, the Company and its stockholders the fiduciary duty to exercise good faith and

1 diligence in the administration of the affairs of the Company, as well as the highest obligations of
2 fair dealing and not to act in furtherance of his or her personal interest or benefit.

3 168. Because of their positions of control and authority as officers and/or directors of
4 Amazon, Defendants were able to, and did, directly and/or indirectly, exercise control over the
5 wrongful and illegal acts complained of herein. Because of their advisory, executive, managerial,
6 and directorial positions with Amazon, each Defendant had knowledge of material, nonpublic
7 information regarding the Company. In addition, as officers and/or directors of a publicly held
8 company, Defendants had a duty to promptly disseminate accurate and truthful information with
9 regard to the Company's business, operations, and prospects including accurate information
10 concerning financial, operational, legal regulatory and enforcement risks, so that the market price
11 of the Company's stock would be based on truthful and accurate information.

12 169. At all times relevant hereto, each Defendant was the agent of each of the other
13 Defendants and of Amazon and was at all relevant times acting within the course and scope of
14 such agency.

15 170. To discharge their duties, Defendants were, and are, required to exercise reasonable
16 and prudent oversight and supervision over the management, policies, practices, and controls of
17 Amazon. By virtue of such duties, Defendants were, and are, required to, among other things:

- 18 (a) Exercise good faith to ensure that the Company is operated in a diligent,
19 efficient, honest, and prudent manner and in accordance with all applicable
20 laws (including federal and state laws, government rules and regulations,
21 and the Company's certificate of incorporation and bylaws);
22 (b) Neither violate nor knowingly permit any officer, director, or employee of
23 Amazon to violate any applicable laws, rules, or regulations;
24 (c) Remain informed as to the status of Amazon's operations, and upon receipt

or notice of information of illegal, imprudent or unsound practices, to make a reasonable inquiry in connection thereto and to take steps to correct such conditions or practices;

(d) Establish and maintain systematic and accurate records and reports of the business and affairs of Amazon and procedures for the reporting of the Company's business and affairs to the Board and to periodically investigate, or cause independent investigation to be made of, said reports and records;

(e) Maintain and implement an adequate, functioning system of internal controls, such that the affairs and operations of Amazon are conducted in accordance with all applicable laws, rules, and regulations; and

(f) Truthfully and accurately inform and guide investors and analysts with respect to the business operations of the Company.

B. Duties Pursuant to Amazon's Code of Business Conduct and Ethics

171. Amazon has in place a Code of Business Conduct and Ethics. The very first principle it espouses states, "Employees must follow applicable laws, rules and regulations at all times. Employees with questions about the applicability or interpretation of any law, rule or regulation, should contact the Legal Department."

172. Amazon's Code of Business Conduct and Ethics also applies equally to its directors, stating "With respect to their service on behalf of the Company, Amazon.com's Board of Directors must comply with the relevant provisions of this Code of Conduct, including conflicts of interest, insider trading and compliance with all applicable laws, rules and regulations."

C. Additional Duties of the Audit Committee Defendants

173. In addition to the duties discussed above with respect to all of the Individual Defendants, the Audit Committee Defendants owed specific duties to Amazon under the Audit

Committee Charter ("Audit Charter"). Among other things, the Audit Charter charges the Audit Committee Defendants with the following authority and responsibilities, among others:

1. *Annual and Quarterly Financial Reporting*: The Committee reviews and discusses with management and the independent auditors the annual audited and quarterly unaudited financial statements and related disclosures included in the Company's quarterly earnings releases and in the Company's periodic reports on Form 10-K and 10-Q.

* * *

3. *Disclosure, Accounting and Financial Controls*: The Committee discusses with management, the senior internal audit executive and the independent auditors the adequacy and effectiveness of the Company's disclosure controls and procedures, the adequacy and effectiveness of the Company's internal control over financial reporting, and the Company's risk assessment and risk management policies, including data privacy and security, business continuity, and operational risks.

* * *

10. *Legal, Regulatory, and Compliance*: The Committee oversees legal and regulatory matters that may have a material impact on the Company's financial statements and the Company's Code of Business Conduct and Ethics (other than with respect to workplace discrimination and harassment). The Committee periodically reviews the Company's compliance policies and procedures, and receives and reviews certain reports on complaints, allegations, and incidents reported pursuant to the Code of Business Conduct and Ethics or through the Company's other hotlines and procedures.

D. Additional Duties of the Nominating and Corporate Governance Committee Defendants

174. In addition to the duties discussed above with respect to all of the Individual Defendants, the Nominating and Corporate Governance Committee Defendants owed specific duties to Amazon under the Nominating and Corporate Governance Committee Charter ("NCGC Charter"). Among other things, the NCGC Charter charges the Nominating and Corporate Governance Committee Defendants with the following authority and responsibilities, among others:

1 11. The Committee oversees and monitors the Company's policies and initiatives
 2 relating to corporate social responsibility, including human rights and ethical
 3 business practices, and risks related to the Company's operations and engagement
 4 with customers, suppliers, and communities, other than with respect to human
 5 capital management matters, which are overseen by the Leadership Development
 6 and Compensation Committee, and compliance and controls matters, which are
 7 overseen by the Audit Committee.

8 12. The Committee oversees the Company's corporate governance initiatives and
 9 periodically considers, and reports to the Board on, corporate governance policies.
 10 In connection with this responsibility, the Committee develops and periodically
 11 reviews the Corporate Governance Guidelines and recommends changes to the
 12 Board.

13 175. "Under its charter, the Nominating and Corporate Governance Committee, which
 14 is comprised of directors with experience in emerging technologies and public policy, is given
 15 responsibility for overseeing and monitoring the Company's policies and initiatives relating to
 16 corporate social responsibility, including human rights and ethical business practices, and risks
 17 related to the Company's operations and engagement with customers, suppliers, and
 18 communities." 2022 Proxy Statement, at p. 86.

19 176. The Nominating and Corporate Governance Committee Defendants have allegedly
 20 provided oversight on behalf of the Board on aspects of Rekognition, including its facial
 21 recognition capabilities. "These reviews focus on the actual operation and use of Amazon
 22 Rekognition, the potential concerns and abuses that critics have suggested could arise from the
 23 technology, and our actions to resolve or mitigate those risks and concerns." *Id.*

24 **E. Additional Duties of the Leadership Development and Compensation
 Committee Defendants**

177. In addition to the duties discussed above with respect to all of the Individual
 Defendants, the Leadership Development and Compensation Committee Defendants owed
 specific duties to Amazon under the Leadership Development and Compensation Committee

1 Charter (“LDCC Charter”). Among other things, the LDCC Charter charges the Leadership
 2 Development and Compensation Committee Defendants with the following authority and
 3 responsibilities, among others:

- 4 (a) Overseeing and monitoring the Company’s strategies and policies related to
 5 human capital management within the Company’s workforce, including
 6 with respect to policies on diversity and inclusion, workplace environment
 7 and safety, and corporate culture.
- 8 (b) The Committee establishes and reviews the compensation of the
 9 Company’s Chief Executive Officer (“CEO”) and all other executive
 10 officers, including establishing terms of employment for new executive
 11 officers; periodically reviewing and approving compensation for existing
 12 executive officers; reviewing and approving any compensation-related
 13 performance goals, including evaluating the satisfaction of such goals; and
 14 approving the terms associated with any executive officer’s termination of
 15 employment.

16 **VI. DAMAGES TO AMAZON**

17 178. As a direct and proximate result of the Individual Defendants’ misconduct, actions,
 18 and failure to act, Amazon has suffered and continues to suffer significant harm, including, but not
 19 limited to:

- 20 (a) Legal and other costs incurred, and the distraction of, investigating and
 21 defending Amazon—including its subsidiaries, such as AWS—in the
 22 Consumer Class Actions, the Antitrust Actions, and the Securities Class
 23 Action, as well as potentially hundreds of millions of dollars in damages in
 24 connection with any settlements or judgments in connection therewith or

any other related litigation;

(b) Legal and other costs incurred, and the distraction of, investigating and defending Amazon in connection with the DOJ Criminal Investigation and the SEC Probe, as well as the costs incurred in connection with any penalties, fines, or other monetary impositions resulting therefrom;

(c) Loss in market capitalization;

(d) Legal and other costs incurred due to an increase in regulatory scrutiny of Amazon's future products and services;

(e) Costs incurred related to any corrective measures or changes to Amazon's products or services in order to comply with laws or regulations applicable to the misconduct;

(f) The irreparable harm to the Company's reputation, loss of credibility, and loss of goodwill associated with the Company's continued violations of law and its failure to properly disclose the associated risks in its public statements concerning its business, operations, and prospects;

(g) Costs incurred from the unjust and unwarranted compensation and benefits paid to the Individual Defendants and other members of Amazon's management while they were engaged in the improper conduct alleged herein; and

(h) Mounting risk of catastrophic statutory damages on a *per violation* basis, with millions of violations occurring daily each and every time biometric data is captured and stored on Amazon devices, third party data is stored in Amazon cloud-based services, and data is captured concerning Amazon employees.

VII. CONSPIRACY, AIDING AND ABETTING, AND CONCERTED ACTION

179. In committing the wrongful acts alleged herein, the Individual Defendants have pursued, or joined in the pursuit of, a common course of conduct and have acted in concert with and conspired with one another in furtherance of their common plan or design. In addition to the wrongful conduct alleged herein giving rise to primary liability, the Individual Defendants further aided and abetted and/or assisted each other in breaching their respective duties.

180. During all times relevant hereto, the Individual Defendants, collectively and individually, initiated a course of conduct that was designed to and did, among other things: (i) deceive the investing public including stockholders of Amazon; and (ii) permit flawed and ineffectual internal controls over the Company's operations. In furtherance of this plan, conspiracy, and course of conduct, the Individual Defendants, collectively and individually, took the actions set forth herein.

181. The Individual Defendants engaged in a conspiracy, common enterprise, and/or common course of conduct. During this time, the Individual Defendants caused and/or allowed the improper conduct described herein.

182. The purpose and effect of the Individual Defendants' conspiracy, common enterprise, and/or common course of conduct was, among other things, to disguise the Individual Defendants' violations of state and federal law, breaches of fiduciary duty, waste of corporate assets, unjust enrichment, and to conceal adverse information concerning the Company's business, operations, and future prospects.

183. The Individual Defendants accomplished their conspiracy, common enterprise, and/or common course of conduct by causing the Company to purposefully or recklessly engage in the improper conduct described herein. Because the Individual Defendants' actions occurred under the authority of the Board, each Individual Defendant was a direct, necessary, and substantial

1 participant in the conspiracy, common enterprise, and/or common course of conduct complained
2 of herein.

3 184. Each Individual Defendant aided and abetted and rendered substantial assistance in
4 the wrongs complained of herein. In taking such actions to substantially assist the commission of
5 the wrongdoing complained of herein, each Individual Defendant acted with knowledge of the
6 primary wrongdoing, substantially assisted in the accomplishment of that wrongdoing, and was
7 aware of his or her overall contribution to and furtherance of the wrongdoing.

8 **VIII. DERIVATIVE ALLEGATIONS**

9 185. Plaintiff brings this action derivatively in the right and for the benefit of the
10 Company to redress injuries suffered, and to be suffered, by Amazon as a direct result of the
11 breaches of fiduciary duty, waste of corporate assets, and unjust enrichment by the Individual
12 Defendants.

13 186. Amazon is named as the nominal defendant in this case solely in a derivative
14 capacity. This is not a collusive action to confer jurisdiction on this Court that it would not
15 otherwise have.

16 187. Plaintiff will adequately and fairly represent the interests of the Company and its
17 stockholders in prosecuting this action.

18 188. Due to the Board's direct involvement in the wrongdoing, its members' lack of
19 independence, and the substantial likelihood of liability its members face, prosecution of this
20 action independent of the Board is in the best interests of the Company and its stockholders.

21 **IX. FUTILITY ALLEGATIONS**

22 189. Plaintiff incorporates by reference all prior paragraphs as if fully set forth herein.

23 190. Amazon's current Board, the "Demand Board," consists of eleven members, Bezos,
24 Jassy, Alexander, Cooper, Gorelick, Huttenlocher, McGrath, Nooyi, Rubinstein, Stonesifer, and

1 Weeks. Plaintiff has not made any demand on the Board to institute this action because such a
 2 demand would be a futile and useless act.

3 **A. Demand Is Excused as to Defendants Bezos and Jassy Because They**
 4 **Lack Independence**

5 191. Both Defendants Bezos and Jassy fall under the NASDAQ's definition of directors
 6 who are not independent. According to the NASDAQ's rules regarding listing, a director is not
 7 independent if he or she is, or has been within the last three years, an employee or an executive
 8 officer of the listed company. Because Defendant Jassy is Amazon's current President and CEO,
 9 he may not be considered independent. Likewise, Defendant Bezos may not be considered
 10 independent as he served as its CEO from Amazon's founding up until July 2021. The Company's
 11 2022 Proxy Statement does not indicate that Defendants Bezos and Jassy are "independent" as
 12 defined by the NASDAQ rules.

13 192. Furthermore, Defendant Jassy is not independent because his principal professional
 14 occupation is his employment with Amazon.

15 193. As President and CEO of Amazon beginning in July 2021 and previously CEO of
 16 AWS since April 2016, Defendant Jassy received significant compensation from the Company as
 17 described herein. Accordingly, Defendant Jassy lacks independence from the other members of
 18 the Board due to his interest in maintaining his executive positions.

19 194. This lack of independence renders Defendants Bezos and Jassy incapable of
 20 impartially considering a demand to commence and vigorously prosecute this action.

21 **B. Demand Is Excused Because the Demand Board Faces a Substantial**
 22 **Likelihood of Liability for Their Misconduct**

23 195. Each member of the Demand Board breached their fiduciary duties by, among other
 24 things:

- 1 (a) Failing to ensure the Company's compliance with relevant legal and
- 2 regulatory requirements;
- 3 (b) Failing to heed and take action upon red flags indicating violations of
- 4 applicable laws and regulations across the Company and that the
- 5 Company's internal controls to ensure compliance with applicable laws and
- 6 regulations were inadequate;
- 7 (c) Failing to maintain an adequate system of oversight, accounting controls
- 8 and procedures, disclosure controls, and other internal controls, which were
- 9 necessary to prevent or promptly correct the improper statements made on
- 10 the Company's behalf;
- 11 (d) Themselves affirmatively making, allowing to be made, and/or failing to
- 12 correct improper statements in SEC filings relating to the Company's
- 13 operations, internal controls, legal proceedings and risks (including
- 14 financial, operational, legal, regulatory and enforcement, risks); and
- 15 (e) Awarding Amazon's senior executives lavish compensation packages,
- 16 despite their knowledge of and responsibility for the Company's willful
- 17 misconduct.

18 196. Amazon's violations of BIPA are longstanding, have been raised before the
 19 Demand Board, and have been repeatedly disregarded by the Demand Board. In Amazon's 2019
 20 and 2020 Proxy Statements, the Board even dismissed shareholder concerns specifically raising
 21 the illegality and privacy implications of Amazon's facial recognition system, Rekognition. A
 22 majority of the current members of the Demand Board – namely, Defendants Bezos, Gorelick,
 23 Huttenlocher, McGrath, Nooyi, Rubinstein, Stonesifer, and Weeks – were among the directors
 24 who dismissed shareholder concerns about BIPA and privacy violations.

1 197. In Amazon’s 2022 Proxy Statement, the current Demand Board dismissed the risks
 2 posed to the Company by Amazon’s flouting of consumer privacy rights under the law and
 3 responded to shareholder concerns by attempting to reassure shareholders that: “Our Board has
 4 reviewed Amazon Rekognition, along with other programs, as part of numerous AWS business
 5 reviews.”²⁷

6 198. Each member of the Demand Board, by virtue of their positions as trusted
 7 fiduciaries of the Company charged with overseeing the Company’s business and operations, knew
 8 of the Company’s anticompetitive practices as well. Amazon derives substantial revenues from
 9 its anticompetitive practices, and as such, the Demand Board would necessarily have to have been
 10 aware of these improper practices. Moreover, the DOJ was well aware of the Company’s
 11 anticompetitive practices by March 9, 2022, and media outlets reported that as of April 6, 2022,
 12 the SEC Probe was already well underway and had been for more than one year.

13 199. Accordingly, the Demand Board faces a substantial likelihood of liability for their
 14 breaches of fiduciary duties, making any demand upon them futile.

15 200. Additionally, the Audit Committee Defendants at all relevant times, had
 16 specifically defined duties to properly oversee: (i) the integrity of the Company’s publicly reported
 17 financial statements, press releases, and guidance; (ii) its system of internal, financial, and
 18 administrative controls; and (iii) the Company’s compliance with legal and regulatory
 19 requirements, including risk management policies and consumer privacy violation risks. Thus, the
 20 Audit Committee Defendants were responsible for knowingly or recklessly allowing and failing
 21 to correct the improper conduct detailed herein.

22 201. For these reasons, the Audit Committee Defendants face a substantial likelihood of
 23

24 ²⁷ 2022 Proxy Statement, at p. 86.

1 liability for their breach of fiduciary duties, making any demand upon them futile.

2 202. Additionally, the Nominating and Corporate Governance Defendants—who have
3 “experience in emerging technologies and public policy”—at all relevant times specifically
4 reviewed risks of Amazon’s Rekognition facial recognition technology in operation and actions to
5 resolve or mitigate those risks, as part of their duty to oversee the Company’s ethical business
6 practices. Thus, the Nominating and Corporate Governance Defendants were responsible for
7 knowingly or recklessly allowing and failing to correct the improper conduct detailed herein.

8 203. For these reasons, the Nominating and Corporate Governance Defendants face a
9 substantial likelihood of liability for their breaches of fiduciary duties, making any demand upon
10 them futile.

11 204. The Demand Board is aware of Amazon’s violations of law as detailed herein.
12 Fiduciaries of a Delaware Corporation cannot be loyal to a Delaware corporation by knowingly
13 causing it to seek profit by violating the law. Each of the Directors face substantial likelihood of
14 personal liability for breaching their duty of loyalty, among many other duties.

15 205. In the face of the knowing and continuing violations of law, each of the Directors
16 has failed to act, both to remedy illegal conduct and to apprise shareholders of the risks attendant
17 to Amazon’s conduct, demonstrating a conscious disregard for their responsibilities and failing to
18 discharge their fiduciary duty of loyalty in good faith.

19 206. Demand is futile as to each of the members of the Demand Board.

20 **C. Demand Is Excused for Additional Reasons**

21 207. Demand is futile because the Demand Board is dominated and controlled by
22 Defendant Bezos because of his immense influence as founder of the company and long tenure as
23 CEO. Defendant Bezos built Amazon into one of the largest and most profitable companies in the
24 world and has about a 13% stake in the Company.

208. The Demand Board members are likewise conflicted and unable to pursue the Company's claims against the Officer Defendants. Any effort to directly prosecute such claims against the Officer Defendants for their direct roles in the violations of applicable law carried out in Amazon's name would necessarily expose the Board's own culpability for the very same conduct. In other words, given that the Demand Board was required to be regularly informed concerning the Company's public reporting, outlook, controls, and employment decisions with respect to the Company's most senior officers, any effort by the Board to hold the Officer Defendants liable would lead the Officer Defendants to defend on the ground that their own conduct was consistent with corporate policy and practice, as established by and known to the Demand Board.

209. Moreover, the acts complained of constitute violations of the fiduciary duties owed by Amazon's officers and directors, and these acts are incapable of ratification. Despite having knowledge of the claims and causes of action raised by Plaintiff, the Demand Board has failed and refused to seek to recover on behalf of the Company for any of the wrongdoing alleged by Plaintiff herein.

FIRST CAUSE OF ACTION

Breach of Fiduciary Duties (Against the Director Defendants)

210. Plaintiff incorporates by reference and realleges each of the preceding paragraphs above as if fully set forth herein.

211. The Director Defendants owed and owe Amazon fiduciary obligations. By reason of their fiduciary relationships, the Director Defendants specifically owed and owe Amazon the highest obligation of good faith, fair dealing, loyalty, and due care in the administration of the affairs of the Company, including, without limitation, the oversight of the Company's compliance

1 with state and federal privacy laws, rules, and regulations, as well as the duty of candor and truthful
2 disclosure with respect to their public statements.

3 212. The Director Defendants also owed and owe Amazon fiduciary duties under state
4 corporation law, which impose broad obligations on Defendants vis-a-vis the corporation and its
5 individual stockholders.

6 213. In addition, the Director Defendants have specific fiduciary duties as defined by the
7 Company's corporate governance documents, including its Guidelines on Significant Corporate
8 Governance Issues, Code of Business Conduct and Ethics, and the charters of various Board
9 committees, and principles that, had they been discharged in accordance with the Director
10 Defendants' obligations, would have prevented the misconduct and the consequent harm to the
11 Company.

12 214. Each Director Defendant violated his or her fiduciary duties by consciously
13 causing, or consciously failing to prevent the Company from engaging in, the improper acts
14 complained of herein.

15 215. The Director Defendants consciously breached their fiduciary duties and violated
16 their corporate responsibilities in at least the following ways:

- 17 (a) Failing to ensure the Company's compliance with relevant legal and
18 regulatory requirements;
- 19 (b) Failing to heed and take action upon red flags indicating violations of law
20 across the Company and that the Company's internal controls to ensure
21 compliance with applicable laws and regulations were inadequate;
- 22 (c) Failing to maintain an adequate system of oversight, accounting controls
23 and procedures, disclosure controls, and other internal controls, which were
24 necessary to prevent or promptly correct the improper statements made on

1 the Company's behalf;

2 (d) Themselves affirmatively making, allowing to be made, and/or failing to
3 correct improper statements in SEC filings and other public disclosures
4 relating to the Company's operations, internal controls, legal proceedings
5 and risks (including financial, operational, legal, regulatory and
6 enforcement, risks);

7 (e) Awarding Amazon's senior executives lavish compensation packages,
8 despite their knowledge of and responsibility for the Company's willful
9 misconduct; and

10 (f) Reappointing the same directors who had failed in their duties to the Audit
11 Committee and Nominating and Corporate Governance Committee.

12 216. As a direct and proximate result of the Director Defendants' breaches of their
13 fiduciary obligations, Amazon has sustained significant damages. Accordingly, the Director
14 Defendants are liable to the Company.

15 217. Plaintiff, on behalf of Amazon, has no adequate remedy at law.

16 **SECOND CAUSE OF ACTION**

17 **Breach of Fiduciary Duties** 18 **(Against the Officer Defendants)**

19 218. Plaintiff incorporates by reference and realleges each and every allegation
20 contained above, as though fully set forth herein.

21 219. The Officer Defendants owed fiduciary duties to Amazon and its stockholders. By
22 reason of their positions as fiduciaries to the Company, the Officer Defendants owed duties of
23 good faith, loyalty, candor, and truthful disclosure. In addition, the Officer Defendants have
24 specific fiduciary duties as defined by the Company's corporate governance documents, including

1 its Code of Business Conduct and Ethics, and principles that, had they been discharged in
 2 accordance with the Officer Defendants' obligations, would have prevented the misconduct and
 3 the consequent harm to the Company.

4 220. The Officer Defendants violated these duties by issuing, causing to be issued, or
 5 otherwise allowing the material omissions and misrepresentations described herein. The Officer
 6 Defendants were well aware of the relevant privacy laws, rules, and regulations.

7 221. The Officer Defendants consciously breached their fiduciary duties and violated
 8 their corporate responsibilities in at least the following ways:

- 9 (a) Failing to ensure the Company's compliance with relevant legal and
 10 regulatory requirements;
- 11 (b) Engaging in a course of action which lead to violations of the law and
 12 regulations;
- 13 (c) Themselves affirmatively making, allowing to be made, and/or failing to
 14 correct improper statements in SEC filings and other public disclosures
 15 relating to the Company's operations, internal controls, legal proceedings
 16 and risks (including financial, operational, legal, regulatory and
 17 enforcement, risks); and
- 18 (d) Failing to implement and maintain adequate internal controls to ensure that
 19 adequate management and disclosure of risks.

20 222. As a direct and proximate result of the Officer Defendants' breaches of their
 21 fiduciary obligations, Amazon has sustained significant damages. Accordingly, the Officer
 22 Defendants are liable to the Company.

23 223. Plaintiff, on behalf of Amazon, has no adequate remedy at law.
 24

THIRD CAUSE OF ACTION

**Waste of Corporate Assets
(Against the Individual Defendants)**

224. Plaintiff incorporates by reference and realleges each of the preceding paragraphs as if set forth fully herein.

225. As a result of the misconduct described above, the Individual Defendants have wasted corporate assets by forcing the Company to expend valuable resources in defending itself in the ongoing litigation and investigations detailed herein, in addition to any ensuing costs from a potential settlement or adverse judgment or any penalties, fines, or other monetary penalties imposed related thereto.

226. Further, as a result of the failure to allow the Company to implement adequate internal and financial controls, the Individual Defendants have caused Amazon to waste its assets by paying improper compensation and bonuses to certain of its executive officers and directors that breached their fiduciary duties.

227. As a result of their waste of corporate assets, Defendants are liable to the Company.

228. Plaintiff, on behalf of Amazon, has no adequate remedy at law.

FOURTH CAUSE OF ACTION

**Unjust Enrichment
(Against the Individual Defendants)**

229. Plaintiff incorporates by reference and realleges each of the preceding paragraphs as if set forth fully herein.

230. By their wrongful acts and omissions, the Individual Defendants were unjustly enriched at the expense of and to the detriment of Amazon. The Individual Defendants were unjustly enriched because of the compensation and remuneration they received while breaching

1 fiduciary duties owed to the Company.

2 231. Plaintiff, as a stockholder and representative of Amazon, seeks restitution from the
3 Individual Defendants, and each of them, and seeks an order of this Court disgorging all profits,
4 benefits, severance payments, and other compensation obtained by the Individual Defendants, and
5 each of them, in connection with, from or at the time of their wrongful conduct and fiduciary
6 breaches.

7 232. Plaintiff, on behalf of Amazon, has no adequate remedy at law.

8 **PRAYER FOR RELIEF**

9 WHEREFORE, Plaintiff demands judgment as follows:

10 A. Finding that a stockholder demand on the Amazon Demand Board would have been
11 a futile and useless act;

12 B. Finding that the Individual Defendants breached their fiduciary duties to the
13 Company, wasted corporate assets, and were unjustly enriched;

14 C. Finding against each Individual Defendant in favor of Amazon for the amount of
15 damages sustained by Amazon, jointly and severally, in an amount to be determined at trial,
16 together with pre- and post-judgment interest at the maximum legal rate allowable by law;

17 D. Requiring the Individual Defendants to return to Amazon all compensation and
18 remuneration of whatever kind paid to them by the Company during the time that they were in
19 breach of their fiduciary duties;

20 E. Directing Amazon to take all necessary actions to reform and improve its corporate
21 governance and internal procedures to comply with applicable laws and to protect Amazon and its
22 stockholders from a repeat of the damaging events described herein, including, but not limited to,
23 putting forward for stockholder vote, resolutions for amendments to the Company's Bylaws or
24 Articles of Incorporation, and taking such other action as may be necessary to place before

VERIFIED STOCKHOLDERDERIVATIVE COMPL. - 70

HERMAN JONES LLP
15113 Washington Ave. NE
Bainbridge Island, WA 98110
206.819.0821

1 stockholders for a vote of the following corporate governance policies:

2 1. a proposal to strengthen the Company's controls and monitoring of
3 compliance with anticompetition, antitrust, and privacy laws, including BIPA;

4 2. a proposal to strengthen the Company's controls over accounting and
5 financial reporting;

6 3. a proposal to strengthen the Board's supervision of operations (including
7 research & development along with third-party contracts) and develop and implement procedures
8 for greater stockholder input into the policies and guidelines of the Board;

9 4. a proposal to strengthen Amazon's disclosure controls to ensure material
10 information is adequately and timely disclosed to the SEC and the public;

11 5. a provision to permit the stockholders of Amazon to nominate at least three
12 candidates for election to the Board;

13 6. a proposal to appoint additional independent board members with
14 established reputations in the IT/biometrics industry and with substantial experience in
15 governance, risk, compliance, cybersecurity, and consumer privacy issues;

16 7. a proposal to enhance and/or augment the audit, risk and compliance
17 committees of the Board to oversee internal controls and compliance processes;

18 8. a proposal to ensure that the Chief Compliance, Risk and Legal Officer(s)
19 and other company leadership have (a) necessary subject matter and regulatory expertise; (b) direct
20 reporting authority to the Board; and (c) adequate autonomy and resources to carry out their
21 responsibilities;

22 9. a proposal to review and implement revised codes of conduct, policies and
23 procedures, training, integrity hotlines, auditing and monitoring processes and procedures;

24 10. a proposal to review and implement policies and procedures for escalating

1 internal and regulatory issues internally and to the Board; and

2 11. a proposal to review and implement the confidential reporting structure and
3 investigative process of complaints within the company;

4 G. Directing Defendants to establish, maintain, and fully fund effective corporate
5 governance and compliance programs to ensure that Amazon's directors, officers, and employees
6 do not engage in wrongful or illegal practices;

7 H. Granting additional appropriate equitable and/or injunctive relief to remedy the
8 Individual Defendants' misconduct, as permitted by law;

9 I. Awarding Plaintiff the costs and disbursements of this action, including reasonable
10 attorneys' and experts' fees and expenses; and

11 J. Granting such other and further relief as this Court deems just and equitable.
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JURY DEMAND

Plaintiff demands a trial by jury as to all issues so triable.

Respectfully submitted, this 9th day of June, 2022.

/s/ Gregory F. Wesner

Gregory F. Wesner, WSBA No. 30241

HERMAN JONES LLP
15113 Washington Ave NE
Bainbridge Island, WA 98110
Tel.: (206) 819-0821
gwesner@hermanjones.com

Michael I. Fistel, Jr. (to seek admission pro hac
vice)
JOHNSON FISTEL, LLP
40 Powder Springs Street
Marietta, GA 30064
Tel.: (470) 632-6000
Fax: (770) 200-3101
michaelf@johnsonfistel.com

Frank J. Johnson (to seek admission pro hac
vice)
JOHNSON FISTEL, LLP
501 West Broadway, Suite 800
San Diego, CA 92101
Tel.: (619) 230-0063
Fax: (619) 255-1856
frankj@johnsonfistel.com

Attorneys for Plaintiff

VERIFICATION

I, Francis Gimbel Jr., hereby verify that I am familiar with the allegations in the Verified Stockholder Derivative Complaint (“Complaint”), and that I have authorized the filing of the Complaint and that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed this 8th day of June, 2022.

DocuSigned by:

Francis Gimbel Jr

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Francis Gimbel Jr.